

103

# CAN THE LABOR SIDE AGREEMENT SAVE NAFTA?

Y 4. G 74/7:L 11/11

Can the Labor Side Agreement Save N...

## HEARINGS BEFORE THE EMPLOYMENT, HOUSING, AND AVIATION SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS FIRST SESSION

SEPTEMBER 9, AND OCTOBER 7, 1993

Printed for the use of the Committee on Government Operations



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# CAN THE LABOR SIDE AGREEMENT SAVE NAFTA?

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THURSDAY, SEPTEMBER 9, 1993

HOUSE OF REPRESENTATIVES,  
EMPLOYMENT, HOUSING, AND AVIATION SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 1:45 p.m., in room 2247, Rayburn House Office Building, Hon. Collin C. Peterson (chairman of the subcommittee) presiding.

Present: Representatives Collin C. Peterson, Bobby L. Rush, Floyd H. Flake, and Karen L. Thurman.

Also present: Representatives Gene Green, Craig Thomas, and William H. Zeliff, Jr.

Staff present: Edith A. Holleman, staff director; Joy R. Simonson, professional staff member; Andrea Nelson, counsel; June Saxton, clerk; and Jane O. Cobb, minority professional staff, Committee on Government Operations.

## OPENING STATEMENT OF CHAIRMAN PETERSON

Mr. PETERSON. The Subcommittee on Employment, Housing, and Aviation will come to order.

I want to welcome the future ranking minority member, Mr. Zeliff from New Hampshire, one who has been elevated to this high level so early in your career.

Mr. ZELIFF. Thank you very much.

Mr. PETERSON. On August 13, U.S. Trade Ambassador Mickey Kantor announced that the United States, Mexico, and Canada had negotiated two side agreements to the North American Free Trade Agreement. President Clinton had promised that these agreements would have teeth, they would, he said, guarantee the protection of workers' rights and the environment in all three countries.

The major concern was Mexico, which has some good laws on the books and few resources or desire to enforce them. Workers in Mexico earn one-seventh of those in the United States and Canada and this is a wage advantage that needs to be lessened, obviously.

Despite the administration's claims to the contrary, the labor side agreement is little more than lip gloss on a toothless face, or as they say in my part of the country, you can put lipstick on a pig and name it Monique and it is still a pig.

President Clinton claims that the agreement allows sanctions if Mexico's minimum wage does not increase as productivity goes up, but Mexico denies it.

As NAFTA's negotiators told congressional staff in a briefing earlier this week, "We have taken care not to require too much."

The Mexican negotiators brag at home about the "exceedingly long" and convoluted dispute resolution process. Commerce Minister Jaime Serra Puche told the Mexican Congress that it was "very improbable" that sanctions would ever be imposed.

So we are hearing different stories on different sides of the border.

A recent commentary describes the sanctions as voluntary. It said the tripartite commissioners hardly qualify as economic brown shirts. They can only ask us to enforce our own laws and request that we fork over fines if we don't.

Without objection, I will put both articles into the record.  
[The articles follow:]

# NAFTA and Mexican Wages

**M**EXICAN WAGES have suddenly become a major factor in American politics. With both parties deeply divided, Congress is approaching a vote later this fall on NAFTA, the North American Free Trade Agreement. The debate reflects American uncertainty about this country's ability to compete with low-wage countries—uncertainty and, perhaps, a loss of self-confidence.

Rep. David Bonior (D-Mich.), who fiercely opposes NAFTA, got into a quarrel over Mexican wages a week ago with the columnist Robert Novak on "Meet the Press." It's worth sorting out that exchange. Mr. Bonior is right in saying that Mexican wages today are lower than they were in the late 1970s. In those days, Mexico was living very well—far beyond its means—on an enormous flow of foreign bank loans. With the Latin debt crisis of 1982, that lending ended abruptly, and the Mexican standard of living fell like a rock.

But the Mexican government regained control of the economy by the middle 1980s, and things then began to improve rapidly. Mr. Novak is right when he says that in recent years—specifically, since 1987—Mexican wages have been rising sharply.

The crucial comparison in this argument is between the two countries' average compensation—

wages plus fringe benefits—in manufacturing industry. In the turnaround year of 1987, according to the U.S. Bureau of Labor Statistics, wages-plus-fringes in Mexico were 7 percent of the American level. By 1992, they were 15 percent of the American level—\$2.35 an hour in Mexico vs. \$16.17 in the United States.

Mr. Bonior's allies in the labor movement argue that Mexican wage policy is holding wages artificially low while productivity rises, creating a monster that will eat the American competition alive. But if the Mexican wage pact is effective, how come real Mexican wages nearly doubled over the past five years?

And if the wage argument is right, how come the American competition has been doing so well? Mexico began opening up its economy to world trade in the mid-1980s. NAFTA would open it further on its northern border and make the opening permanent. But the really dramatic changes have already been accomplished. Over those same five years, from 1987 to last year, American exports to Mexico nearly tripled, and the trade balance between the two countries swung from a \$6 billion-a-year American deficit to a \$5 billion-a-year American surplus. For people who care about American jobs, those are the numbers that really matter.

# NAFTA is the right way to go; all that is needed is leadership

By JACK KEMP

The North American Free Trade Agreement (NAFTA) is under siege. Not from the White House or Republicans, but from protectionists and isolationists on the far right and left who are armed with misleading numbers and colorful metaphors.

Faced with a tough battle to get NAFTA through Congress, the Clinton administration appears to be weak and vacillating. The administration's rhetorical support for NAFTA has yet to be met by concrete action. The campaign to pass NAFTA must not be revived, it must begin.

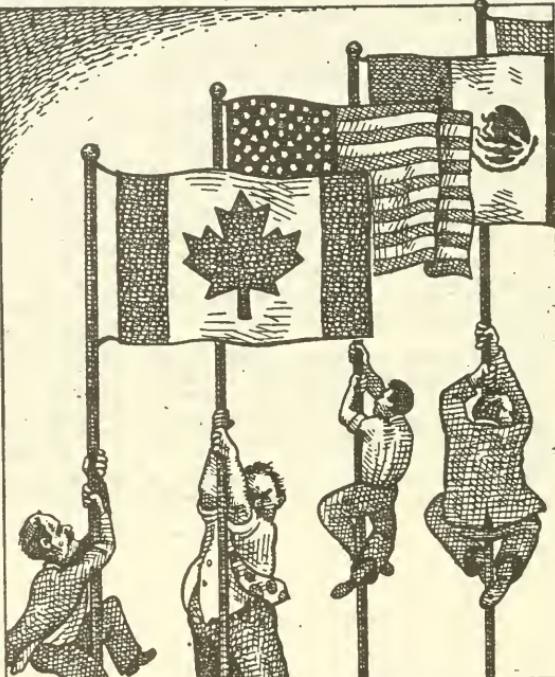
The ruling by U.S. District Court Judge Charles Richey, calling for an environmental impact statement that could set NAFTA back several years, drives another nail in NAFTA's coffin. Now the recently established side agreements complicate matters further. This issue is so important to allow such a leadership vacuum.

Why? Because our nation is at risk of losing one of the most important trade expanding initiatives in post-World War II American history. The agreement between the United States, Mexico and Canada would create a trade alliance of 370 million consumers with an annual economic output of more than \$6.5 trillion. By reducing and eventually eliminating expensive tariffs and other trade barriers, NAFTA will dramatically increase economic activity between the three countries.

As U.S. exports increase, more American jobs will be created. The Commerce Department estimates that 19,100 American jobs are created for every \$1 billion increase in U.S. manufacturing exports. Today more than 600,000 Americans are employed because of our exports to Mexico. With NAFTA, that number is estimated to jump to 1 million by 1995.

Before Mexico joined the GATT in 1986, tariffs on U.S. exports were as high as 100 percent. Now they are down to an average of 10 percent. These declining tariffs produced a windfall of export activity, shifting our trade status with Mexico from a deficit of \$4 billion to a surplus of \$9 billion. Our Southern neighbor has now become the fastest-growing export market, second behind only Canada, for U.S. exports of manufactured goods.

For Pennsylvania, the benefits of NAFTA are clear. More than 126,000 jobs in Pennsylvania are already dependent on trade with Canada and Mexico. About half of these jobs have been created in Pennsylvania since



Texas International Features / PAUL KOLSTIE

1987 due to increased trade among the three trading partners.

The trend of increasing export-related jobs in Pennsylvania will accelerate under NAFTA. Canada and Mexico are already Pennsylvania's first and third largest export markets, respectively. In 1992, exports to these countries alone were \$1.6 billion. Since Mexico began reducing tariffs in 1987, 23 Pennsylvania industries have more than doubled their exports to Mexico, providing much-needed source of job growth.

The "giant sucking sound" of disappearing U.S. jobs doesn't come from expanded trade with Mexico. It comes from growing tax and regulatory burdens on the businesses that create jobs. Higher taxes and government red tape will force American businesses to move south of the border in search of low-tax, low-regulation countries. The answer is two-fold: reversing the debilitating effects of President Clinton's \$250 billion tax increase and passing NAFTA as the first step to a hemispheric free trade zone.

NAFTA will also ease the problem of

illegal immigration from Mexico to the U.S., particularly in California and other border states. Most illegal immigrants come to America seeking greater opportunities for themselves and a better life for their families. By building on the historic free market reforms advanced by Mexican President Carlos Salinas de Gortari, NAFTA will expand economic growth, jobs and opportunities within Mexico, thereby reducing the incentive to illegally cross our border.

What do we stand to lose if NAFTA is defeated? Economic growth will be lower, illegal immigration will be higher, jobs will be lost, and U.S. leadership and prestige will suffer.

NAFTA is a critical issue. It will create jobs, fuel economic growth and lead to more choices for American consumers. The only thing that can stop NAFTA is a lack of leadership and commitment by the Clinton administration.

Jack Kemp is the former congressman and secretary of Housing and Urban Development in the Bush administration.

Mr. PETERSON. For these so-called concessions, Mexico will receive greater access to the enormous United States trade market than it has now.

The labor side agreement purports to enforce only three types of laws: Those involving health and safety, minimum wage, and child labor. It does not require Mexico to enforce the primary, internationally recognized right of all workers to assemble, organize, and collectively bargain without the interference or repression of their government.

This represents a major step backwards. Our own GSP, generalized system of preferences requires this right be implemented by developing countries who hold the most favored nation status for trade purposes. Mexico currently has this status and is subject to trade sanctions if it does not comply. A petition alleging failure to comply is pending at USTR against members.

Under the GSP law and regulations, specific deadlines are set for enforcement. Petitions must be filed by June 1 of each year, with an initial decision made by USTR by July 15, and a final decision by April 15 of the following year. The process has been used in the past to sanction Chile, Nicaragua, and Paraguay. Indonesia, Thailand, El Salvador, and Guatemala are currently under notice that they must respect workers' rights to assemble and organize or face severe trade sanctions.

This subcommittee received graphic testimony in July about the firm control of Mexico's "official" unions by the government. The rights of a union to be recognized, to strike, to select independent local leadership, and to approve contracts are all controlled by the government through its labor ministry. Workers attempting to develop independent unions are harassed, fired, beaten, forced to accept fraudulent elections, and sometimes killed by official union, police, and government thugs.

They have been told that United States negotiators did not attempt to protect these rights for Mexican workers because it feared the wrath of the CTM, Mexico's largest official union. I cannot believe that our government would award Mexico unrestricted access to our enormous market without guaranteeing Mexico's workers their basic rights and enhancing our workers' ability to compete on a level playing field because of a fear of Mexico's unions.

These are serious issues. They affect all of us, not just those in organized labor or working people. We have an economic recovery in this country without jobs. Of the jobs created last year, 30 percent were part time and 6.8 million Americans, often middle-aged men who have lost full-time jobs have had to accept part-time work.

There are now more low-wage service jobs than high-wage manufacturing jobs in our country. Our trade policy must reflect these realities.

What this country needs is someone who understands that workers and consumers are the same person in every economy. If the worker can't consume, the economy will ultimately fail.

I want to address briefly the absence of any government officials to represent the administration's position on NAFTA at this hearing. We wanted them to be here.

Almost a month ago, Ambassador Kantor was invited to testify at this hearing. At 6 p.m. last Friday, his office informed us that he would not appear until the President had made a statement on NAFTA and the House Ways and Means Committee had held its hearing, which is evidently going to be next week.

This reluctance to upstage the President did not, however, stop Mr. Kantor from holding a press conference with Members of Congress yesterday who support NAFTA or from appearing on "Larry King Live" last night.

Without objection, Ambassador Kantor's letter and a similar one from Secretary Reich will be placed in the record.

[The letters follow:]

## U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

SEP 3 1993

The Honorable Collin Peterson  
Chairman  
Subcommittee on Employment, Housing  
and Aviation  
Committee on Government Operations  
Washington, D.C. 20515-6143

Dear Chairman Peterson:

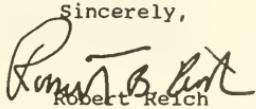
I am writing in response to your letter inviting Larry Katz to appear on September 9th at a hearing on the Labor Supplemental Agreement to accompany the North American Free Trade Agreement (NAFTA).

As you know, after months of difficult negotiations, the U.S. Trade Representative, Mickey Kantor, announced on August 13th that the U.S., Mexico and Canada had reached an agreement in principle on both the Environmental and Labor Supplements. The Labor Supplemental Agreement will strengthen the ability of the United States to address many issues critical to the creation and preservation of high quality jobs.

On September 14, the President will make a statement to the American people on the NAFTA. While Dr. Katz would welcome the opportunity to appear before your subcommittee to discuss the details of the Labor Supplemental, he is unable to do so on September 9th.

We will continue to work with you to identify a mutually convenient time when Dr. Katz can appear before your subcommittee. We look forward to discussing the Labor Supplemental Agreement with you and other members of your subcommittee at that time.

Sincerely,

  
Robert B. Reich

THE UNITED STATES TRADE REPRESENTATIVE  
Executive Office of the President  
Washington, D.C. 20506

SEP 3 1993

The Honorable Collin Peterson  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you very much for your invitation to testify before the Employment, Housing and Aviation Subcommittee on September 9, 1993. I understand that the hearing is designed to review the recently completed labor supplemental agreement to the North American Free Trade Agreement.

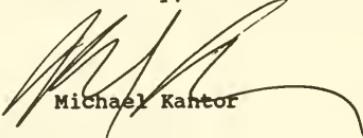
We are proud of what we have achieved with these supplemental agreements and would be happy to testify on their content and meaning. These agreements are unprecedented in scope and will greatly advance labor and environmental concerns in a trade context.

On September 14, 1993 the President will make a statement to the American people on the NAFTA. In addition, I and other Administration officials will appear before the two Congressional committees of primary jurisdiction during that week.

Thus, while I appreciate your invitation, I am unable to testify at this subcommittee hearing as currently scheduled.

If, however, you would like the appropriate USTR official to appear before your subcommittee sometime after the week of September 13th, we would be pleased to work on a mutually convenient time. Thank you again for your kind invitation.

Sincerely,



Michael Kantor

Mr. PETERSON. There is no doubt in my mind that Larry King and the Ways and Means Committee will provide a much more sympathetic platform for NAFTA than this committee, but the American people do not want sympathetic forums. They want answers to tough questions and they aren't getting them.

I find it hard to believe how the administration and the supporters of NAFTA expect to pass this agreement if they will not come before committees and explain why they support them and explain these agreements.

This committee I think has bent over backwards. We asked these people to come to a hearing in July. They said we want to wait until the side agreements are done. So we backed off. We then tried to call a hearing in August right after the side agreements had been announced. They said, "We don't want to have a hearing during the recess. We want you to wait until after Congress comes in."

So we backed off again. We set this hearing today and they came up with another excuse why they cannot be here. We will set up another hearing next week after the President announces this and after the hearing with the Ways and Means Committee and I hope we can get somebody to explain what they have negotiated.

If we are being stiffed on this, this committee does have subpoena power and we may have to resort to that. But we are not going to stand for them not coming in to explain what is in these agreements.

[The opening statement of Mr. Peterson follows:]

STATEMENT OF CHAIRMAN COLLIN C. PETERSON  
EMPLOYMENT, HOUSING AND AVIATION SUBCOMMITTEE  
September 9, 1993

On August 13, U.S. Trade Ambassador Mickey Kantor announced that the United States, Mexico and Canada had negotiated two side agreements to the North American Free Trade Agreement (NAFTA). President Clinton had promised that these agreements would have "teeth;" they would, he said, guarantee the protection of workers' rights and the environment in all three countries. The major concern was Mexico, which has some good laws on the books and few resources or desire to enforce them. Workers in Mexico earn one-seventh of those in the U.S. and Canada, a wage advantage that needs to be lessened.

Despite the administration's claims to the contrary, the labor side agreement is little more than lip gloss on a toothless face. President Clinton claims that the agreement allows sanctions if Mexico's minimum wage does not increase as productivity goes up, but Mexico denies it. As NAFTA's negotiators told Congressional staff in a briefing earlier this week, "We have taken care not to require too much." The Mexican negotiators brag at home about the "exceedingly long" and convoluted dispute resolution process. Commerce Minister Jaime Serra Puche told the Mexican Congress that it was "very improbable" that sanctions would ever be imposed. A recent commentary described the sanctions as voluntary. It said -- and I quote -- "The [tripartite] commissioners hardly qualify as economic Brown Shirts. They can only ask us to enforce our own laws and request that we fork over fines if we don't." Without objection, I will put both articles into the record. For these so-called "concessions," Mexico will receive even greater access to the enormous U.S. trade market than it has now.

The labor side agreement purports to enforce only three types of laws: those involving health and safety, minimum wage and child labor. It does not require Mexico to enforce the primary, internationally recognized right of all workers to assemble, organize and collectively bargain without the interference or repression of their government. This represents a major step backwards. Our own GSP (Generalized System of Preferences) requires this right be implemented by developing countries who hold the "most favored nation" status for trade purposes. Mexico currently has this status and is subject to trade sanctions if it does not comply. A petition alleging failure to comply is pending at USTR against Mexico.

Under the GSP law and regulations, specific deadlines are set for enforcement. Petitions must be filed by June 1 of each year, with an initial decision made by USTR by July 15, and a final decision by April 15 of the following year. The process has been used in the past to sanction Chile, Nicaragua and Paraguay. Indonesia, Thailand, El Salvador and Guatemala are currently under notice that they must respect workers' right to assemble and organize or face severe trade sanctions.

This Subcommittee received graphic testimony in July about the firm control of Mexico's "official" unions by the government. The rights of a union to be recognized, to strike, to select independent local leadership and to approve contracts are all controlled by the government through its Labor ministry. Workers attempting to develop independent unions are harassed, fired, beaten, forced to accept fraudulent elections and sometimes killed by official union, police and government thugs.

We have been told that U.S. negotiators did not attempt to protect these rights for Mexican workers because it feared the wrath of the CTM, Mexico's largest official union. I cannot believe that our government would award Mexico unrestricted access to our/enormous market without guaranteeing Mexico's workers their basic rights and enhancing our workers' ability to compete on a level playing field because of a fear of Mexico's unions.

These are serious issues. They affect all of us, not just those in organized labor. We have an economic recovery without jobs. Of the jobs created last year, 30 percent were part-time, and 6.8 million Americans, often middle-aged men who have lost full-time jobs, have had to accept part-time work. There are now more low-wage service jobs than high-wage manufacturing jobs. Our trade policy must reflect these realities.

What this country needs is someone who understands that workers and consumers are the same person in every economy. If the worker can't consume, the economy will ultimately fail.

I want to address briefly the absence of any government officials to represent the administration's position on NAFTA. Almost a month ago, Ambassador Kantor was invited to testify at this hearing. At 6 p.m. last Friday, his office informed us that he would not appear until the President had made a statement on NAFTA, and House Ways and Means had held its hearing. This reluctance to upstage the President did not, however, stop Mr. Kantor from holding a press conference with members of Congress or appearing on "Larry King Live" last night. Without objection, Ambassador Kantor's letter and a similar one from Secretary Reich will be placed in the record.

There is no doubt in my mind that Larry King and Ways and Means will provide a much more sympathetic platform for NAFTA. But the American people do not want sympathetic forums. They want answers to tough questions, and they aren't getting them.

Mr. PETERSON. With that, I will recognize the future ranking minority member for an opening statement. Again we are glad to have you.

Mr. ZELIFF. Thank you, Mr. Chairman.

Mr. Chairman, I thank you for calling this subcommittee together today to examine the supplemental agreements on labor to the North American Free Trade Agreement. I also want to commend the administration's negotiating team on a job well done in bringing the side accords to final agreement among the NAFTA parties. Although the "hard sell" is still ahead, I am hopeful that the diligent work of Ambassador Kantor and his negotiators and staff will pay off in a passing vote for the entire trade package.

Today most of the witnesses before this subcommittee will probably argue against congressional approval of NAFTA. Their argument in sum is that the trade deal will result in losses of United States jobs to cheaper labor in Mexico. Their concerns are certainly well intentioned and there is no disputing the fact that some jobs will be lost. However, the simple fact is that those jobs which are at risk from trade with Mexico will remain at risk—with or without NAFTA.

While some jobs will be lost, the important point is that far more will be created. This is why we need the NAFTA.

Mexico began lowering its trade barriers to United States goods in 1986. Since then, our exports to Mexico have tripled. Today over 700,000 American jobs are supported by exports to Mexico—an estimated 400,000 of those jobs were created since 1986. NAFTA is expected to create 200,000 or more high-wage jobs by 1995. Our trade balance with Mexico has gone from a \$4.9 billion a year deficit to a \$6 billion surplus. Growth in U.S. exports has led to technology gains, expanded markets for American businesses, lower prices for American consumers and, ultimately, more jobs for American workers. NAFTA will virtually eliminate Mexico's trade barriers to United States goods, which translates into more access to the Mexican market for American businesses and more jobs for American workers.

International trade is vital to our economic well-being. In order to compete in the increasingly competitive global marketplace, we need to develop and cultivate new markets for American-made goods. Make no mistake, the American worker takes a back seat to no one when it comes to productivity. We have the most productive work force in the world able to meet any challenge from Mexico or any other trading partner.

As strong as we are in this area, we must not become complacent. We can always improve in the areas of quality, cost, and efficiency to maintain and continue our competitive edge. If you don't compete, you don't sell. If you don't sell, you don't stay in business. If you don't stay in business, you cannot create jobs.

The debate over NAFTA is an emotional one.

Many, many things are misunderstood and there is a lot of bad information out there, but I hope that the facts will prevail. In my judgment, the key to our future is international trade and the lowering and elimination of trade barriers.

I, too, join you, Mr. Chairman, in the disappointment that Mr. Kantor is not here today. We obviously need his leadership and the administration's leadership to present their side of the story.

In the absence of that, I look forward to the testimony today and our colleagues here working with you in trying to get out to the American people all the pluses and minuses of what a future North American Free Trade Agreement could do for the United States.

Mr. PETERSON. Thank you, Mr. Zeliff. We appreciate that statement.

[The prepared statement of Mr. Zeliff follows:]

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**Congress of the United States  
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Washington, DC 20515-2001**

CHAIRMAN, REPUBLICAN TASK FORCE ON  
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SBA: LEGISLATION AND  
THE GENERAL ECONOMY

**STATEMENT OF THE HONORABLE WILLIAM H. ZELIFF  
BEFORE THE SUBCOMMITTEE  
ON EMPLOYMENT, HOUSING, AND AVIATION  
ON THE LABOR SIDE AGREEMENT OF NAFTA**

September 9, 1993

Mr. Chairman,

Thank you for calling the Subcommittee together today to examine the supplemental agreement on labor to the North American Free Trade Agreement.

I also want to commend the Administration's negotiating team on a job well done in bringing the side accords to final agreement among the NAFTA parties. Although the "hard sell" is still ahead, I am hopeful that the diligent work of Ambassador Kantor and his negotiators and staff will pay off in a passing vote for the entire trade package.

Today, most of the witnesses before this subcommittee will argue against congressional approval of NAFTA. Their argument, in sum, is that the trade deal will result in losses of US jobs to cheaper labor in Mexico.

Their concerns are certainly well-intentioned, and there is no disputing the fact that some jobs will be lost. However, the simple fact is that those jobs which are at risk from trade with Mexico will remain at risk -- with or without NAFTA.

While some jobs will be lost, the important point is that far more will be created. This is why we need the NAFTA.

Mexico began lowering its trade barriers to US goods in 1986. Since then, our exports to Mexico have tripled. Today, over 700,000 American jobs are supported by exports to Mexico -- an estimated 400,000 of those jobs were created since 1986. NAFTA is expected to create 200,000 or more high

wage jobs by 1995. Our trade balance with Mexico has gone from a \$4.9 billion-a-year deficit to a \$6 billion surplus. Growth in US exports has led to technology gains, expanded markets for American businesses, lower prices for American consumers and, ultimately, more jobs for American workers. NAFTA will virtually eliminate Mexico's trade barriers to US goods, which translates into more access to the Mexican market for American businesses and more jobs for American workers.

International trade is vital to our economic well-being. In order to compete in the increasingly competitive global marketplace, we need to develop and cultivate new markets for American-made goods. Make no mistake: the American worker takes a back seat to no one when it comes to productivity. We have the most productive workforce in the world, able to meet any challenge from Mexico or any other trading partner.

As strong as we are in this area, we mustn't become complacent. We can always improve in the areas of quality, cost and efficiency to maintain our competitive edge. If you don't compete, you don't sell. And if you don't sell, you don't stay in business. And if you don't stay in business, you cannot create jobs.

The debate over NAFTA is an emotional one, but I hope that the facts will prevail. I look forward to the testimony from our witnesses today. Thank you Mr. Chairman.

Mr. PETERSON. The gentlelady from Florida, Mrs. Thurman.

Mrs. THURMAN. For time purposes, I would like to submit this.

I would like to thank you for your leadership on this and certainly in bringing information to us as we go back to our districts and talk about this. While we don't get the most up-to-date information because we can't get people from the administration here to talk about it, it is unfortunate because the American people demand answers to their questions. So I look forward to the testimony today.

Mr. PETERSON. Without objection, the gentlelady's statement will be submitted for the record.

[The prepared statement of Mrs. Thurman follows:]

OPENING STATEMENT  
BY  
REP. KAREN L. THURMAN (D-FL)

Committee on Government Operations  
Subcommittee on Employment, Housing, and Aviation  
September 9, 1993

Thank you Mr. Chairman. First, I want to thank you for your continuing leadership on making sure that the truth about NAFTA is brought to the public's attention. You and this subcommittee have been carefully pursuing this issue for quite some time now. Now, as the debate on NAFTA heats up, I hope the media will now pay attention and inform the public of the facts that this subcommittee has uncovered.

I look forward to today's hearing. I believe too many issues still remain unresolved by the recently concluded side agreements. To say that I am disappointed in the side agreements is an understatement. I will not even discuss the absolute failure of these side agreements to address the serious threat to agricultural interests in my and other Members' Districts.

Looking at the summary of the labor side agreement, since there is no formal legal text yet available, there are numerous problems which remain unresolved. From my point of view, the labor side agreement offers no protection to Mexican workers. While covering the crucial matters of minimum wage, child labor, and occupational safety and health, there are no provisions for the basic right of collective bargaining. I also have serious concerns about the enforcement procedures for nations violating the terms of the proposed agreement. I have seen nothing in these side agreements which would ensure that a violating country or industry follow their national law. I fear that under the terms of this labor side agreement, the new bureaucracy that will be created will have the net effect of a "Trade League of Nations:" lofty goals without any true power to enforce them.

In closing, let me also welcome today's panel of witnesses and indicate that I am looking forward to their testimony. Let me also add that I am disappointed that officials from the Department of Labor and the United States Trade Representative declined to be with us this afternoon. I think that the American people have been denied the opportunity to hear these officials offer their defense of the side agreement. Thank you Mr. Chairman.

Mr. PETERSON. Mr. Thomas.

Mr. THOMAS. No, thank you. I am not a member. I came to listen.

Mr. PETERSON. Mr. Flake.

Mr. FLAKE. I have been in all of the hearings that you have held and continue to give full support in hopes that we get enough information to make an intelligent and enlightened decision.

I ask unanimous consent to have my statement included in the record.

Mr. PETERSON. Without objection.

[The prepared statement of Mr. Flake follows:]

STATEMENT FOR CONGRESSMAN FLOYD H. FLAKE  
BEFORE THE COMMITTEE ON SMALL BUSINESS  
SEPTEMBER 9, 1993

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE ON GOVERNMENT OPERATIONS. MR. CHAIRMAN, AS WE CONSIDER THE NORTH AMERICAN FREE TRADE AGREEMENT, WHICH HAS GENERATED CONTROVERSY AND CONCERN OF MILLIONS OF AMERICANS, WE MUST FACE THE MANY ISSUES THAT THIS AGREEMENT ENCOMPASSES. THE NAFTA AGREEMENT WILL HAVE A FAR REACHING IMPACT ON OUR NATION WELL INTO THE FUTURE. HENCE, IT IS IMPORTANT MR. CHAIRMAN THAT WE CONTINUE IN OUR EFFORTS TO THOROUGHLY EXPLORE THIS ISSUE.

WHILE I AM CONCERNED WITH THE NEGATIVE IMPACT THAT NAFTA MAY HAVE ON THE POLITICAL RAMIFICATIONS WITHIN MEXICO, I AM ESPECIALLY TROUBLED BY THE POSSIBLE PITFALLS THAT THIS AGREEMENT COULD PRESENT FOR AMERICAN WORKERS AND AMERICAN COMPANIES.

ADDITIONALLY, WE MUST CAREFULLY CONSIDER THE BROADER IMPLICATIONS OF THE NAFTA SIDE AGREEMENTS ON THE AMERICAN ECONOMY AND ITS WORKFORCE. IT IS IMPORTANT THAT AS WE CONSIDER THE LABOR SIDE AGREEMENTS, WE PREVENT MEXICO FROM BECOMING A LOW WAGE DUMPING GROUND FOR AMERICAN COMPANIES. THEREFORE, WE MUST DO EVERYTHING WITHIN OUR JURISDICTION TO REQUIRE AND ENFORCE LAWS IN ALL THREE OF THE COUNTRIES PRINCIPALLY INVOLVED IN THIS AGREEMENT. I BELIEVE THAT YOUR HEARINGS ARE HELPING IN PROPERLY EDUCATING OUR COMMITTEE TO MAKE INFORMED DECISIONS REGARDING NAFTA.

Mr. PETERSON. We are pleased to have Congressman Green from Houston with us today. He has sat in before on these hearings. He is to be commended for the time he has put in listening. If we had more Members putting the time in as you, we would be far ahead.

Do you have a statement?

Mr. GREEN. Thank you, Mr. Chairman.

With that statement, I will not have one. I appreciate the opportunity to sit in and learn more about NAFTA along with the witnesses.

Thank you, Mr. Chairman.

Mr. PETERSON. Thank you.

Our first panel of witnesses are Lynn Williams, the international president of the United Steelworkers of America; and Dennis Skelton, who is the vice president for the International Brotherhood of Teamsters.

I want to welcome you both to today's hearing and thank you for taking your time to be with us. It is the custom in Government Operations hearings, which are investigative hearings, to swear in all witnesses so that we do not discriminate against any of them.

Do you have objection to being sworn? If not, rise and raise your right hand.

[Witnesses sworn.]

Mr. PETERSON. We will hear first from Mr. Williams and from Mr. Skelton before we begin with questions. Both of your written statements will be included in the record so feel free to summarize or extemporize or whatever would be your wishes.

Thank you very much for being with us.

#### STATEMENT OF LYNN R. WILLIAMS, INTERNATIONAL PRESIDENT, UNITED STEELWORKERS OF AMERICA

Mr. WILLIAMS. Thank you, Mr. Chairman and chairwoman and Congresswomen and Congressmen.

I appreciate very much the opportunity to be here. The issue of a special regional trade agreement with Mexico and Canada, an arrangement outside of the usual multilateral negotiations generated under the auspices of GATT, has caused deep concern within the ranks of working people.

There is a pervasive fear of job loss. The NAFTA settlement is not primarily designed to benefit American labor, although its proponents claim that there is a degree of job creation. Simply put, the Bush NAFTA settlement favors a more rapid United States investment and outflow of American dollars for capital development in Mexico. The rationale for this accelerated investment inducement is predicated on the assumption that an eventual upgrading of the Mexican economy would condition the country to have a marketplace more suitable for American imports of higher value products.

Actually the short-term impact of this agreement, according to the International Trade Commission, would result in the dislocation of approximately 145,000 workers, while the net gain in jobs, the tradeoff, would be a meager 171,000 jobs. Incidentally, those workers who would be losing their jobs would not necessarily be those who gain new employment because of the NAFTA trade flows.

The main point however is that the future industrialization of the Mexican economy, which is a long-term gain, is being purchased at an immediate short-term job loss. The policy question arises as to whether measures other than a job-threatening trade agreement could be devised to accelerate the structural revitalization of the Mexican economy.

Just recently the Congress engaged in a traumatic debate on the Federal budget. It was a historic decision which the steelworkers supported. Its enactment represented a change in the macroeconomic policy of the U.S. Government. Of primary emphasis during the congressional deliberation was the focus upon the negative impact which the Federal debt is having upon our capital markets. Lack of business investment in new markets, equipment, and technological improvements is depriving the American economy of the ability to compete in the global marketplace. Yet the stated purpose of the NAFTA negotiations is to stimulate a greater flight of already scarce American capital to Mexico.

The GAO in a July 1993 report indicates, "The cumulative stock of U.S. direct foreign investment in Mexico more than doubled between 1985 and 1991, rising from \$5.1 billion to \$11.6 billion." To the extent that NAFTA increases this outflow, the decapitalization of American industries will be further aggravated. This is surely not sound economic policy.

The United Steelworkers does not find the Bush NAFTA agreement to be conducive to a high-wage strategy trade policy. On the contrary, we have already experienced the threats and actual corporate decisions to relocate plants in Mexico unless wage concessions are forthcoming.

NAFTA will only embolden some employers to take full advantage of that option. Indeed, in some cases, even the vain race to the bottom of the wage scale will not protect American jobs from imports produced with such rate differentials as exists between American and Mexican workers.

We are therefore urging the Congress to reject the agreement because it represents a trade policy which causes a disproportionate and socially unacceptable loss of jobs as a tradeoff for a very minimal net job gain at best, initiates another inducement for wage depression and lower living standards for American workers in order to meet trade competition, and depletes limited capital resources needed for U.S. investment in American productive facilities.

A further comment relates to the inadequacy of the labor side agreement. There may have been some expectation that the supplementals could compensate for the negative economic impacts of the basic agreement. However, the deletion of the basic right to organize, bargain and strike as a fully actionable standard under the labor accord completely defeats that expectation.

Although the side arrangements in the appendix identifies 11 labor principles, the violation of only 3 of them, safety and health, child labor, and minimum wages, can be fully processed under the dispute mechanism which, admittedly, is a very complex and convoluted procedure.

The labor side agreement, while a limited forum for the disclosure of labor rights violations, does not reach the level of an accord

which could justify the economic job losses anticipated by the NAFTA basic agreement.

It should also be noted that apparently even the limited actionable labor standards which must be "effectively enforced" by the national governments could escape NAFTA imposed remedial measures if noncompliance, "A, reflects a reasonable exercise of the agency's discretion; or B, results from bona fide decisions to allocate enforcement resources to violations determined to have higher priorities."

So much for side agreements with teeth.

Trade agreements usually imply a certain degree of economic compatibility among the trading partners. The degree of compatibility might also signal the caliber of the economic integration entailed in the agreement. Hence at one level entrance into GATT requires compliance with a certain set of conditions regarding GATT codes and tariffs and adjustments to a market-based economy.

Signatories to GATT do not integrate their economies. Indeed, there are fundamental differences in terms of standards of living, rates of economic growths, et cetera. Hence a certain level reciprocity of trade relationships among these nations is the governing factor in the trade arrangements.

Nevertheless there are some countries which remain outside of the GATT group because of basic incompatibility between their systems and the GATT signatories. Thus for instance the Confederation of Independent States, formerly the Soviet Union, has not been invited to join. Only recently Mexico became a GATT member.

Within the EC countries, there is a much greater level of trade integration, but again it is also accompanied by a much greater degree of compatibility among their economies. Some of the current EC partners received belated invitations because their economic systems had not yet evolved to an adequate level of compatibility, for example, Spain, Portugal, and Greece.

However, Eastern European countries are denied entrance into the EC since their nonmarket economies have not yet adjusted sufficiently to deal not only in a market economy environment, but certainly are not compatible for the level of integration entailed in the EC regime. This is understandable.

A third and even greater level of integration is that envisioned by free trade agreements as between Canada and the United States. Here there is a greater degree of compatibility, especially since all tariff barriers are being eliminated.

The USWA has maintained that the Mexican economy has not reached the level of compatibility which makes it eligible for a free trade agreement. There is a real problem in merging a high-wage area with a low-wage area. Unions are very concerned about trade policy which is built upon a low wage strategy. Either our own domestic wage base is threatened in order to compete in the Mexican marketplace, or the low wage opportunities in Mexico can be a lure for attracting the export of United States capital and plants.

According to Harley Shaiken at the University of California:

To what extent could the possibility of relocating jobs to Mexico influence collective bargaining in the United States? In mid-1992, the Wall Street Journal published a poll of 455 leading corporate executives. About one quarter of those interviewed stated that they were either very likely or at least somewhat likely to use the NAFTA as a bargaining tool to try to hold down wage in the United

States. . . . Widespread use of economic integration as a bargaining chip in United States labor markets is certainly possible, if not likely. There is evidence of unprecedented influence on labor markets in the United States and Canada.

It has been contended by NAFTA proponents that such wage pressures would not develop and that integration would instead have an upward influence on Mexican wage levels.

Professor Shaiken notes that wages in Mexico actually dropped 40 percent during the 1980's so that the "historic link between rising productivity and rising wages that has enabled workers in the United States and elsewhere to enter the middle class has largely been absent within the Mexican economy."

For that reason, American labor has strongly supported the concept and content of a labor side agreement which would assure that Mexican labor rights and environmental standards are enforced.

The side agreement does not make that linkage actionable, although President Salinas has proposed a change in Mexican law to link minimum wage to productivity measures. However, a future change in the law to delete the linkage would be permissible. Furthermore, in order to more reasonably offset Mexican low wage competition resulting from NAFTA, it would have been better if the linkage had mandated increases in real wages and not just minimum wages since many Mexican workers in the export industries are employed at rates above minimum wage.

It is surprising that NAFTA supporters who claim that the agreement will not adversely affect these rights and standards had expressed an unwillingness to endorse an institutional mechanism to assure compliance.

USTR Ambassador Kantor indicated that he would not submit the NAFTA agreement to Congress unless the side agreements have "teeth" in them. The United Steelworkers openly applauded his effort to incorporate trade sanctions as the penalty measures. Actually, trade policy cannot remain divorced from labor and environmental policy. His effort was directed at establishing a much needed linkage between these policies and trade.

In relationship to NAFTA because of the high degree of incompatibility between our economies, this linkage is absolutely a precondition to any serious discussion of our economic linkage. Otherwise there will be grave injury. The environmental side agreement is needed to assure that Mexico is not a haven for runaway polluters. The labor side agreement is necessary to counteract, to a certain degree the low wage strategy.

We are extremely dismayed, however, that Ambassador Kantor has concurred in a labor supplemental which does not include the right to organize, collectively bargain, and strike among the national labor standards subject to the full enforcement action of the Labor Commission.

Aside from the failure to assure the basic right to join a union it has always been assumed that the labor supplemental would promote a "level playing field" through the collective bargaining activity of freely chosen unions. By excluding this right, the labor supplemental negotiated by the three governments aborts its claim to address the economic incompatibility with the Mexican economy and to respond to legitimate social objectives already in other United States trade laws, as the chairman mentioned.

It should be noted that in the past, labor's concern about trade agreements related to the job impact in our own market to accelerated imports. This form of job loss was usually rebutted by the proposition that U.S. exports created even more job gains than the losses due to imports. However, with the NAFTA the issue is not just the import impact, but the actual export of job opportunities as companies decide to move facilities south of the border.

The United Steelworkers represent workers not just in the basic steel industry, but in a cross section of manufacturing firms. It is those jobs which are on the line. Even the market gains claimed by the steel industry may not result in increased steel mill jobs.

In one study by David Cantor, Congressional Research Service, it is stated that: "Mexican steel exports to the United States would rise faster than U.S. exports to Mexico."

According to the CRS paper which reviewed a number of studies on steel impact, "[There is] a similar conclusion, namely, the Mexican steel industry is likely to fare better under an FTA than would the United States steel industry."

The International Trade Commission completed a study on the impact on selected industries. "The expected changes in U.S. trade with Mexico as a result of NAFTA are expected to have only minor impact on overall U.S. steel production and employment in both the short and long term."

If the NAFTA arrangement is to be evaluated in terms of advantages to the steel sector, the conclusion of these studies would be inconclusive. In other words, there would be no justification to merge these two economies because of its beneficial steel impact. On the contrary the disadvantageous impacts of merging a high-wage area with a low-wage area would have such adverse results in other employment sectors, especially those which are labor intensive, that no foreseeable steel benefits could offset that injury.

The treaty will be disruptive to jobs in many plants. According to the International Trade Commission, minimal employment gains ranged from 0.03 percent to 0.08 percent. Yet in order to obtain these meager results, according to one study, 145,000 jobs would be displaced.

Jeff Faux of the Economic Policy Institute puts the number closer to 500,000 job losses. The Office of Technology Assessment in its report, "U.S.-Mexico Trade: Pulling Together or Pulling Apart," notes that this treaty is being negotiated at a time when 50 percent of the labor force has suffered significant declines in living standards, and further declines are likely over the next 15 years.

Approval of NAFTA is untimely, disruptive, and without evident benefits.

Thank you very much.

[The prepared statement of Mr. Williams follows:]

TESTIMONY

of

**LYNN R. WILLIAMS**  
**International President**

**UNITED STEELWORKERS OF AMERICA**

Before the

**EMPLOYMENT, HOUSING AND AVIATION SUBCOMMITTEE**  
**Committee on Government Operations**  
**U.S. House of Representatives**

**SEPTEMBER 9, 1993**

TESTIMONY  
of  
LYNN R. WILLIAMS  
International President  
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Before the  
EMPLOYMENT, HOUSING AND AVIATION SUBCOMMITTEE  
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♦  
September 9, 1993

The issue of a special regional trade arrangement with Mexico and Canada, an arrangement outside of the usual multilateral negotiations generated under the auspices of GATT, has caused deep concern within the ranks of working people. There is a pervasive fear of job loss. The NAFTA settlement is not primarily designed to benefit American labor, although its proponents claim that there is a degree of job creation. Simply put, the Bush-NAFTA settlement favors a more rapid U.S. investment and outflow of American dollars for capital development in Mexico. The rationale for this accelerated investment inducement is predicated on the assumption that an eventual upgrading of the Mexican economy would condition the country to have a marketplace more suitable for American imports of higher-value products.

Actually the short-term impact of this agreement, according to the International Trade Commission, would result in the dislocation of approximately 145,000 workers, while the net gain in jobs - the trade-off - would be a meager 171,000 jobs. Incidentally, those workers who would be losing their jobs would not necessarily be those who gain new employment because of the NAFTA trade flows. The main point, however, is that the future industrialization of the Mexican economy, which is a long-term gain, is being purchased at an immediate short-term job loss. The policy question arises as to whether measures other than a job-threatening trade agreement could be devised to accelerate the structural revitalization of the Mexican economy.

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Yet the stated purpose of the NAFTA negotiations is to stimulate a greater flight of already scarce American capital to Mexico. The General Accounting Office in a July 1993 report indicates: "The cumulative stock of U.S. direct foreign investment in Mexico more than doubled between 1985 and 1991, rising from \$5.1 billion to \$11.6 billion." To the extent that NAFTA increases this outflow, the de-capitalization of American industries will be further aggravated. This is not sound economic policy.

USWA does not find the Bush-NAFTA to be conducive to a high-wage-strategy trade policy. On the contrary, we have already experienced the threats and actual corporate decisions to relocate plants in Mexico unless wage concessions are forthcoming. NAFTA will only embolden some employers to take full advantage of that option. Indeed, in some cases even the "vain race to the bottom" of the wage scale will not protect American jobs from imports produced with such rate differentials as exist between American and Mexican workers.

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- causes a disproportionate and socially unacceptable loss of jobs as a trade-off for a very minimal net job gain;
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Although the side arrangement in the appendix identifies eleven (11) labor principles, the violation of only three of them (safety and health, child labor, and minimum wages) can be fully processed under the dispute mechanism which, admittedly, is a very complex and convoluted procedure. The labor side arrangement, while a limited forum for the disclosure of labor rights violations, does not reach the level of an accord which could justify the economic job losses anticipated by the NAFTA basic agreement.

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tariffs and adjustment to a market-based economy. Signatories to GATT do not integrate their economies. Indeed, there are fundamental differences in terms of standard of living, rates of economic growth, etc. Hence a certain level reciprocity of trade relationships among these nations is the governing factor in the trade arrangements. Nevertheless, there are some countries which remain outside of the GATT group because of basic incompatibilities between their systems and the GATT signatories. Thus, for instance, the Confederation of Independent States (formerly the Soviet Union) has not been invited to join. Only recently Mexico became a GATT member.

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A third and even greater level of integration is that envisioned by free trade agreements (FTA) as between Canada and the United States. Here there is a greater degree of compatibility, especially since all tariff barriers are being eliminated.

The USWA has maintained that the Mexican economy has not reached that level of compatibility which makes it eligible for a FTA. There is a real problem in merging a high-wage area with a low-wage area. Unions are very concerned about trade policy which is built upon a low-wage strategy. Either our own domestic wage base is threatened in order to compete in the Mexican marketplace, or the low-wage opportunities in Mexico can be a lure for attracting the export of U.S. capital and plants. According to Harley Shaiken, University of California;

"To what extent could the possibility of relocating jobs to Mexico influence collective bargaining in the U.S.? In mid-1992, the Wall Street Journal published a poll of 455 leading corporate executives. About one-quarter of those interviewed stated that they were either very likely or at least somewhat likely to use the NAFTA as a bargaining tool to try to hold down wages in the U.S. ... widespread use of economic integration as a bargaining chip in U.S. labor markets is certainly possible, if not likely ... There is evidence of unprecedented influence on labor markets in the U.S. and Canada."

It has been contended by NAFTA proponents that such wage pressures would not develop and that integration would instead have an upward influence on Mexican wage levels. Professor Shaiken notes that wages in Mexico actually dropped 40% during the 1980's so that the "historic link between rising productivity and rising wages that has

enabled workers in the U.S. and elsewhere to enter the middle class has largely been absent within the Mexican economy." For that reason, American labor has strongly supported the concept and content of a labor side agreement which would assure that Mexican labor rights (and environmental standards) are enforced.

The side agreement does not make that linkage actionable, although President Salinas has proposed a change in Mexican law to link minimum wage to productivity measures. However, a future change in the law to delete the linkage would be permissible. Furthermore, in order more reasonably to offset Mexican low wage competition resulting from NAFTA, it would have been better if the linkage had mandated increases in real wages and not just minimum wages since many Mexican workers in the export industries are employed at rates above minimum wage.

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It should be noted that in the past labor's concern about trade agreements related to the job impact in our own market to accelerated imports. This form of job loss was usually rebutted by the proposition that U.S. exports created even more job gains than the losses due to imports. However, with the NAFTA the issue is not just the import impact, but the actual export of job opportunities as companies decide to move facilities south of the border.

USWA represents workers not just in the basic steel industry, but in a cross-section of manufacturing firms. It is those jobs which are on the line. Even the market gains, claimed by the steel industry, may not result in increased steel mill jobs. Actually, in one study by David Cantor, Congressional Research Service (CRS) it is stated that: "Mexican steel exports to the United States would rise faster than U.S. exports to Mexico" According to the CRS paper which reviewed a number of studies on steel impact: "[There is] a similar conclusion, namely, the Mexican steel industry is likely to fare better under an FTA than would the U.S. steel industry."

The International Trade Commission completed a study on the impact on selected industries. "The expected changes in U.S. trade with Mexico as a result of NAFTA are expected to have only minor impact on overall U.S. steel production and employment in both the short and long term..." If the NAFTA arrangement is to be evaluated in terms of advantages to the steel sector, the conclusion of these studies would be inconclusive. In other words, there would be no justification to merge these two economies because of its beneficial steel impact. On the contrary, the disadvantageous impacts of merging a high-wage area with a low-wage area would have such adverse results in other employment sectors, especially those which are labor intensive, that no foreseeable steel benefits could offset the injury.

The treaty will be disruptive to jobs in many plants. According to the International Trade Commission, minimal employment gains ranged from 0.03% to 0.08%. Yet in order to obtain these meager results, according to one study, 145,000 jobs would be displaced. Jeff Faux, Economic Policy Institute, puts the number closer to 500,000 job losses. The Office of Technology Assessment (OTA) in its report U.S.-Mexico Trade: Pulling Together or Pulling Apart notes that this treaty is being negotiated at a time when 50% of the labor force has suffered significant declines in living standards - and further declines are likely over the next fifteen years. Approval of NAFTA is untimely, disruptive and without evident benefits.

Mr. RUSH [presiding]. Mr. Skelton, would you proceed, please?

**STATEMENT OF DENNIS SKELTON, VICE PRESIDENT, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, ACCCOMPANIED BY ROBERT NICKLAS, SPECIAL PROJECTS COORDINATOR**

Mr. SKELTON. Good afternoon. I am Dennis Skelton, vice president and acting freight director for the International Brotherhood of Teamsters.

We are pleased to have the opportunity to address this committee on the impact of jobs, highway safety, the U.S. transportation industry, and workers' rights as proposed in a North American Free Trade Agreement and the labor side agreement.

The Teamsters Union, which represents 1.4 million working men and women, is adamantly opposed to the North American Free Agreement. Our union represents hundreds of thousands of men and women in virtually every sector of the trucking industry.

This agreement will cause massive job loss. Additionally, it will make a mockery of the years of legislative action dating from 1982 over congressional concerns regarding the safety of commercial motor vehicle operation in the United States. And it will do nothing to improve the rights and conditions of working people in Mexico.

The NAFTA side agreements were announced with a lot of fanfare, but they do not set labor and environmental standards that corporations must follow no matter where they operate. Without standards, corporations can continue to exploit the differences between our countries to drive down wages, move jobs, and pollute the environment.

Side agreements only require that each country promises to enforce its own laws. That doesn't work now in any of the three countries and it won't work in the future.

Countries are not even required to enforce all of their existing labor laws. For example, under NAFTA, the three countries can violate collective bargaining laws without penalty. They can violate laws protecting our right to strike without penalty. If there isn't a law already governing some aspect of a corporation's behavior, the corporation is off the hook because the side agreements do not set standards to protect workers, consumers, and the environment.

Side deals do set up two new commissions with representatives from all three countries but the commissions have no real powers. The bottom line is that this is not an agreement to expand trade. It is an agreement to expand exploitation in Mexico and job loss in the United States and Canada. Under NAFTA corporations would still be encouraged to move operations to Mexico to pay workers as little as \$4 per day.

NAFTA if put into law will create job loss and have no positive impact on workers rights.

Mr. Chairman, I would like to make clear how inadequate the labor side agreement is by looking at the effect NAFTA will have on transportation workers. Teamster truck drivers are the most qualified and skilled commercial motor vehicle operators in the United States. They take pride in safe and efficient delivery of our Nation's goods.

One negative effect of NAFTA is apparent when one considers the wage differential. A Mexican commercial motor vehicle driver

makes an average of \$7 per day. Compare this to Teamster professional drivers, freight drivers making an average of \$22 per hour, including fringe benefits and parcel delivery drivers making \$17 per hour plus fringe benefits.

American drivers simply cannot compete, nor should they, with Mexican commercial drivers who are not required to be covered by the United States minimum wage, workers compensation insurance, unemployment insurance, and social security.

President Clinton is claiming that NAFTA will produce thousands of high paying jobs. He is wrong. Experience and numerous studies show that NAFTA will cost us tens of thousands of U.S. jobs.

The facts are clear. Over 2,000 United States-owned factories are already operating in Mexico. A new one opens on the average of one each business day.

In terms of trucking jobs, all of the major freight companies that we have under contract, Yellow Freight, Consolidated Freightways, and Roadway, already have operations in Mexico. The writing is on the wall. The labor side agreement will not provide any safeguards to stop the flow of American transportation jobs to Mexico, make no mistake about it.

The lure of low wages alone will result in hundreds of thousands of lost U.S. transportation jobs, many of which are held by Teamster members. In the border States of Arizona, California, New Mexico, and Texas alone, more than 40,000 Teamsters who work in freight and small package delivery are at risk of losing their jobs in competition with poorly paid Mexican workers.

We are not just concerned about the sheer numbers of jobs lost, but what the loss of good American trucking jobs and delivery jobs will mean to highway safety. Mexican truck drivers don't have to meet the same safety standards as United States drivers. They don't have the same requirements for hazardous materials training, or speaking and reading English, or drug and alcohol testing, or limits on hours that they can be on the road without a break. They aren't listed in computers that State and local police use to check for past records of drunk driving and other traffic violations.

Mexican trucks also don't have to meet United States safety standards. Mexican trucks are more than three times older than United States trucks on the average. They are allowed to be longer and heavier than U.S. safety standards permit. Mexican trucks aren't even required to have front brakes, which are required on all United States trucks manufactured since 1980.

Let me give you a specific example about how permitting more Mexican trucks on American highways already has endangered our safety. The Teamsters Union was able to obtain a study of records of roadside inspections of Mexican trucks given by the Texas Department of Public Safety and the Texas State Police. Take the case of Mexican companies with the word auto express in their name.

Six hundred and thirty-eight violations were recorded from random road side inspections of 100 auto express trucks by those agencies in 1991 and 1992. Of the 100 trucks inspected, 12 drivers had no license, 54 units had no fire extinguisher, 66 units had faulty

lights or signals, 27 had defective tires, 44 had no trip inspection certificate, and 25 had no emergency equipment.

Of the 100 trucks, 12 were carrying hazardous materials. Of those 12 hazardous material trucks, 11 were found unsafe and put out of service. Violations range from a lack of placards saying the vehicle was hauling hazardous material to not having any front brakes. Clearly, allowing Mexican trucks free access to American highways will increase hazards that professional and individual drivers will face.

Neither NAFTA nor the side deals will uphold the standards which make sure that the U.S. highways are safe. Even if our trinational trading partners agree to the most stringent driver and truck safety standards the ultimate test will lie in enforcement of these regulations. Current experience indicates that we cannot now adequately police the increased truck traffic from Mexico, let alone the explosion of truck traffic in the future.

Resources of State and Federal law enforcement officials already are stretched to the limits. In Texas, for example, 213 troopers are responsible for patrolling over 200,000 miles of highway 24 hours a day. There are only 13 troopers in the 7 county border area between Brownsville and Laredo, the major truck traffic corridor. The troopers try their best, but the Department of Public Safety admits that many violations go undetected.

Mr. Chairman, the committee will undoubtedly hear that Mexico is in the process of developing or has already instituted truck safety standards which are at a minimum comparable to United States standards. We strongly urge the committee to go to the border areas of California and Texas and witness firsthand the type of Mexican vehicles which are currently driving into the commercial zone areas. Additionally, we would recommend that the committee visit with truck drivers at truck stops, with State highway patrolmen, and other enforcement officials who are dealing with today what NAFTA will hold for the future. We challenge the committee to investigate firsthand in order to determine if the regulations Mexico has on paper are the reality of the highway. We believe this is crucial and would be happy to assist the committee in facilitating this undertaking.

In closing, I want to emphasize that we need fair trade, not free trade. A fair trade agreement expands trade by raising the living standards of people in all countries, requires jobs with good wages and benefits, the strengthening of workers' and human rights, and strong environmental safeguards. A fair trade agreement would include specific measures and timetables for bringing up labor, environmental, and safety standards to the highest levels found in North America instead of bringing them down to the lowest. There won't be fair trade under NAFTA.

President Clinton and Congress should dump NAFTA. Then we should negotiate a different kind of agreement that would benefit workers and the environment in all three countries. It is the only way to ensure a safe, secure future for working people on both sides of the border.

Thank you.

Mr. RUSH. Thank you very much.

[The prepared statement of Mr. Skelton follows:]

STATEMENT OF THE  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

BY  
DENNIS SKELTON  
VICE PRESIDENT

BEFORE THE  
SUBCOMMITTEE ON EMPLOYMENT, HOUSING AND AVIATION  
OF THE  
COMMITTEE ON GOVERNMENT OPERATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1993

ON  
THE EFFECTS ON JOBS, HIGHWAY SAFETY AND INFRASTRUCTURE  
OF THE LAND TRANSPORTATION PROVISIONS PROPOSED  
IN NAFTA AND ITS SIDE AGREEMENTS

Good morning. Mr. Chairman, my name is Dennis Skelton. I am Vice President and Acting Freight Director for the International Brotherhood of Teamsters. We are pleased to have the opportunity to address this Committee on the impact on jobs, highway safety, the U.S. transportation industry, and workers' rights as proposed in the North American Free Trade Agreement (NAFTA) and the labor side agreement.

The Teamsters Union which represents 1.4 million working men and women, is adamantly opposed to the North American Free Trade Agreement. Our union represents hundreds of thousands of men and women in virtually every sector of the trucking industry. This agreement will cause massive job loss. Additionally it will make a mockery of the years of legislative and regulatory action dating from 1982 over Congressional concerns regarding the safety of commercial motor vehicle operation in the United States. And it will do nothing to improve rights and conditions of working people in Mexico.

The NAFTA side agreements were announced with a lot of fanfare, but they do not set labor and environmental standards that corporations must follow no matter where they operate. Without standards, corporations can continue to exploit the differences between our countries to drive down wages, move jobs, and pollute the environment.

The side agreements only require that each country "promises" to enforce its own laws. That doesn't work now in any of the three countries and it won't work in the future.

Countries are not even required to enforce all of their existing labor laws. For example, under NAFTA, the three countries can violate collective bargaining laws without penalty. They can violate laws protecting our right to strike without penalty. And, if there isn't a law already governing some aspect of a corporation's behavior, the corporation is off the hook because the side agreement does not set standards to protect workers, consumers and the environment.

The side deals do set up two new commissions with representatives from all three countries. But the commissions have no real powers. Their primary purpose is to "study" problems without any required timeline for completing the study. If a study finds that something is wrong, there is another long process that may result in fines or sanctions. No penalties are required. And fines cannot be levied against corporations. Governments -- in other words, working people -- pay the fines.

Mr. Chairman, the bottom line is that this is not an agreement to expand trade. It's an agreement to expand exploitation in Mexico and job loss in the U.S. and Canada. Under NAFTA, corporations would still be encouraged to move operations to Mexico to pay workers as little as \$4 per day.

The Committee has asked what impact the labor side agreement will have on workers' rights to freely organize and bargain collectively. NAFTA contains no agreement on, or definition of, minimal international worker rights and labor standards. Under NAFTA, remedies can only be sought to correct poor enforcement of labor standards, not for gross violations of worker rights.

The labor side agreement does not protect the rights of citizens to form and join organizations of their own choosing, hold meetings, speak and operate without fear of reprisal. NAFTA does not protect the right to bargain collectively, to withhold labor through strikes, or to be free from being forced to provide labor.

NAFTA, if put into law, will have no positive impact on workers' rights. The consultation and dispute resolution procedures on labor standards laid out in the side agreement are so long and tortuous that they will discourage complaints and petitions. In addition, neither NAFTA nor the side agreement does anything to address the differences in standards between the three countries. Mexican workers who look to NAFTA and the side agreement to improve democracy in the workplace, to protect their basic human right to free association and the pursuit of a better quality of life, will be gravely disappointed. While Mexico's laws may look better on paper in some cases than U.S. labor laws, the experience of Mexican workers has shown all too well that there is no enforcement of those paper laws. NAFTA does not require adequate enforcement of either country's own standards.

Mr. Chairman, I would like to make clear how inadequate the labor side agreement is by looking at the effect NAFTA will have on transportation workers.

Teamster truck drivers are the most qualified and skilled commercial motor vehicle operators in the United States. They take pride in the safe and efficient delivery of our nation's goods.

One negative effect of NAFTA is apparent when one considers the wage differential. A Mexican commercial motor vehicle driver makes an average \$7.00 per day<sup>1</sup>. Compare this to Teamster professional drivers: freight drivers making an average \$22.00 per HOUR including fringe benefits, and parcel delivery drivers making \$17.00 per HOUR, plus fringe benefits<sup>2</sup>. American drivers simply cannot compete, nor should they, with Mexican commercial drivers who are not required to be covered by the U.S. minimum wage, workers' compensation insurance, unemployment insurance and social security.

President Clinton is claiming that NAFTA will produce thousands of high paying jobs. He's wrong. Experience and numerous studies show that NAFTA will cost us tens of thousands of U.S. jobs. The facts are clear. Over 2,000 U.S. owned factories already are operating in Mexico. A new one opens on the average of one each business day. The basic wage for Mexican workers in these factories is about \$4.00 a day.

President Clinton says that he'll create job training programs for workers who lose their jobs. But what jobs will workers be trained to do? Most of the jobs now being created pay low wages with few or no benefits. Even if jobs are created, they are likely to be lousy jobs, and vastly outnumbered by the tens of thousands of jobs that are moved to Mexico. NAFTA threatens any job that can be done more cheaply with low-wage labor, and the labor side agreement does nothing to change that.

NAFTA will make it even more desirable for corporations to move jobs across the border.

The labor side agreement will not provide any safeguards to stop the flow of American transportation jobs to Mexico. Make no mistake about it, the lure of low wages alone will result in hundreds of thousands of lost U.S. transportation jobs, many of which are held by Teamster members. In the border states of Arizona, California, New Mexico, and Texas alone, more than 40,000 Teamsters who work in freight and small package delivery are at risk of losing their jobs in competition with poorly paid Mexican workers.

We are not just concerned about the sheer numbers of jobs lost, but what the loss of good American trucking and delivery jobs will mean to highway safety. A major reason that trucking and delivery jobs pay well here is because they require a high level of skills to meet our nation's demands of insuring public safety.

Just in the last ten years alone, the U.S. Congress has passed many laws governing commercial motor vehicle standards and driver fitness and qualification. The Teamsters Union has been an advocate and leader in seeking significant gains in both of these areas. This has been accomplished through safety gains in our national collective bargaining agreements; testimony before Congressional Committees on numerous occasions over the past two decades; and active involvement in DOT rulemaking on driver and truck safety matters. The safety of the motoring public and our drivers whose workplace is the highways has always been a priority of our union and this country.

However, we are concerned that the harmonization of driver certification and safety standards and truck size and weight to accommodate NAFTA will lead to degradation of these important U.S. standards. Neither NAFTA nor its side deals guarantees that U.S. safety standards will be maintained.

We would first like to address the area of driver qualification and specifically the differences between a U.S. Commercial Drivers License (CDL) and its Mexican counterpart. Prior to the announcement that negotiations had been completed on the NAFTA, Teamsters were struggling with an indirect consequence of that agreement. On November 21, 1991, the United States government entered into a secret agreement called a Memorandum of Understanding (MOU) with the government of Mexico. With the stroke of a pen, this agreement granted Mexican drivers full access to the United States by treating the Mexican federal commercial drivers license as a valid U.S. CDL. To add insult to injury, the Department of Transportation issued a Final Rule on July 16, 1992 implementing the agreement without hearing or comment. As you know Mr. Chairman, the Teamsters Union has brought suit against DOT over their recognition of the Mexican Licensia Federale as equivalent to our CDL. No matter how good this may eventually look on paper, our members' experience with Mexican drivers in California and elsewhere leave us very skeptical that the Mexican program will ever be as effective as the U.S. CDL program.

I think it is valuable to reexamine Congressional intent in establishing the U.S. CDL program. In 1986 the Congress passed and the President signed into law the Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-570).

The intent of this law is clearly stated in the Report to accompany H.R. 5568 of Committee on Public Works and Transportation, July 23, 1986, p. 1. "The bill is needed to help prevent truck and bus accidents and injuries by establishing national minimum standards for testing and licensing of commercial drivers and requiring drivers to have a single classified driver's license and driving record." Under the CMVSA, no person may operate a commercial motor vehicle unless that person has taken and passed a written and driving test to operate and which meets the minimum federal standards established by the Secretary of Transportation. Further, **states** may issue CDL's to Mexican drivers **only if** the licenses meet the federal uniform minimum standard.

The Final Rule, published July 16, 1992, implementing the MOU grants reciprocity by stating that a Licensia Federal de Conductor (LFC), or Mexican CDL **satisfies** the U.S. commercial driver testing and licensing standards of 49 C.F.R. Part 383. Which brings us back to your question - Does the Mexican CDL meet the same U.S. minimum federal standards? The I.B.T. believes that there are significant differences between the U.S. CDL and the Mexican LFC.

(1) AGE REQUIREMENTS: Because studies established that younger drivers "take more and graver risks than older drivers"<sup>3</sup>, current DOT regulations require CDL applicants to be twenty-one (21) years or older to drive in interstate commerce. Mexico's LFC issues CDL's to eighteen (18) year old drivers.

(2) LANGUAGE REQUIREMENTS: An important requirement for a U.S. based CDL applicant is that "A driver must be able to read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records."<sup>4</sup> There are many U.S. Teamsters whose first language is not English, yet they must meet this requirement to obtain a CDL. Under the Final Rule, no English requirement exists for Mexican LFC drivers. Now, these same Teamsters will have to share the U.S. roads with Mexican holders of the Licensia Federale who have not had to meet this requirement. Why? This is neither fair, nor safe.

(3) SAFETY REQUIREMENTS: Under present U.S. regulations, American drivers must demonstrate specialized knowledge and skill to operate specific equipment such as double/triple trailer trucks, tank trucks or to transport placarded hazardous materials. U.S. CDL's are issued with separate vehicle group and license endorsements for individuals who have met the required tests. There is no hazardous materials endorsement on the Mexican LFC. We understand, informally, that there is a new separate Mexican license for hazmat. However, the U.S. DOT has not published anything that explains how this is as effective as the U.S. arrangements, or how they are going to inform U.S. state and local police that the Licensia Federale by itself, qualifies as a CDL including tank and doubles endorsements for hazardous materials.

(4) INFORMATION EXCHANGE REQUIREMENT: In order to have effective enforcement of the standards set by CMVSA, structured information exchange and clearinghouse functions, required by law, were established domestically among the states. In fact, no U.S. state was allowed to issue CDL's until they were up on the computer network so they could share information. Information exchange and retrieval serves as a valuable method of identifying problem and disqualified drivers and is vital to enforcement. The MOU and Final Rule establishes a "subgroup" for informal exchange of CDL information between the U.S. and Mexico of not less than **once a year.**

In addition to these U.S. minimum federal standards, we are concerned about a key element of the U.S. CDL program, that of the single license, single driver record concept. Our understanding of the Mexican program is that holders of the Licensia Federale will also hold licenses from their home states. This being the case, a Mexican truck driver may have more than one license and therefore more than one driving record.

The MOU prohibits all states from requiring non-resident CDL's for Mexican drivers residing in Mexico. Mexican carriers with ICC authority already operate in U.S. commercial zones along the border. While the MOU further facilitates access for Mexican carriers, U.S. carriers are currently prohibited from entering Mexico. U.S. carriers will not be granted access to the Mexican border states until three (3) years after NAFTA is signed.

Additionally, while the MOU lifts restrictions only on drivers license requirements, the pending North American Free Trade Agreement would lift all restrictions and allow foreign carriers unlimited access within ten years following ratification.

In addition to the driver's license standards, there are numerous other U.S. truck safety related regulations which in NAFTA would be left to Land Transportation Sub-Committee negotiations. Specifically, Article 913 of NAFTA establishes sidebar negotiations to harmonize the transportation systems of the U.S., Canada and Mexico. To the best of our knowledge, the I.B.T., the U.S. organization which represents more drivers of heavy trucks than any organization in this country, has not been asked to participate on any Committee, subcommittee or working group related to NAFTA transportation harmonization.

We are concerned that the harmonization process may result in the degradation of certain truck-safety rules with respect to both the Federal Motor Carrier Safety Regulations and the size and weight regulations. Neither NAFTA, nor its side deals will protect these important safety standards.

One example of a very important area of motor carrier safety which is probably endangered by NAFTA is the Hours of Service Rules. For example, Canada allows drivers at least three (3) more hours of driving time per shift than the U.S. does. We understand that Mexico may be in the process of structuring hours of service regulations, however we have no knowledge of what the process is nor of anything that is currently in place. On the other hand, U.S. hours of service rules are the most comprehensive on the continent.

Through the efforts of thousands of Teamster drivers who signed petitions last year and concerned Members of Congress on both sides of the aisle, we were successful in blocking DOT's attempt to weaken these regulations which are crucial to preventing driver fatigue. DOT's ill-advised proposal was to "reset the clock" on drivers' weekly hours limit whenever they were off duty for twenty-four (24) hours. It may interest you to know, Mr. Chairman, that Canada is currently considering a very similar proposal (with thirty-six (36) instead of twenty-four (24) hours off duty). If they adopt this rule, it will bring the issue back to the NAFTA table where it will find a very supportive U.S. industry and a receptive DOT.

Another area of concern is the harmonization of truck size and weights. The U.S. trucking industry has already put Canada and Mexico on notice that they expect the new-standard single semitrailer to be at least fifty-three (53) feet long. This is longer than either of those countries now allow.

On the other hand, both Mexico and Canada allow maximum weights far higher than the U.S., even for tractors with single semitrailers. Their limits for doubles are tens of thousands of pounds heavier. It seems very likely that the harmonization process will lead to substantially higher truck weight limits throughout the U.S.

A serious safety issue on longer and heavier trucks is braking systems. Presently DOT is moving towards anti-lock brake regulations for trucks. To the best of our knowledge, Mexican trucks aren't even required to have front brakes, while this has been a requirement on all U.S. trucks manufactured since 1980.

We are very concerned that important future safety requirements such as anti-lock brakes may fall victim to the harmonization process.

Even assuming that Mexican truck safety regulations are, or will be, completely compatible with the U.S. Federal Motor Carrier Safety Regulations, we know from our own experience that this alone will not mean that trucks will be maintained to the same level of safety fitness. The still expanding program of roadside safety inspections under the Motor Carrier Safety Assistance Program (MCSAP) has played an important role in raising our awareness of the extent of safety problems in day-to-day operations and in providing motor carriers with new incentives to maintain their equipment to high standards.

How would permitting more Mexican trucks on American highways endanger our safety? The Teamsters Union was able to obtain and study records of roadside inspections of Mexican trucks given by the Texas Department of Public Safety and the Texas State Police. Six hundred and thirty-eight violations were recorded from 100 roadside inspections of Mexican trucks by those agencies in 1991-1992. Of the 100 trucks inspected, 12 drivers had no license, 54 had no fire extinguisher, 66 had faulty lights or signals, 27 had defective tires, 44 had no trip inspection certificate, and 25 had no emergency equipment. Clearly, allowing Mexican trucks free access to American highways will increase hazards that professional and individual drivers will face. Neither NAFTA, nor the side deals, will uphold the standards which make sure that U.S. highways are safe.

You don't have to be a safety expert to know that older equipment is much more difficult to maintain and it is clear that Mexican trucks tend to be significantly older than U.S. trucks. The age factor will make it that much more difficult for Mexico to attain the standards that we strive for in the U.S. As more of their trucks come across the border as a result of NAFTA, it will be doubly important to provide, through MCSAP, an enhanced safety inspection presence at crossings.

Even if our tri-national trading partners agree to the most stringent driver and truck safety standards the ultimate test will lie in the enforcement of these regulations. Unfortunately the specter raised by NAFTA prompts many more questions than answers. Some that we have are: What are the revenue sources for the potential exponential growth in DOT inspectors, immigration personnel, and all other enforcement officials? What affect will Mexican trucks, which are not required to be equipped with anti-pollution devices, have on U.S. efforts to control air pollution pursuant to the Clean Air Act? What about insurance regulation: Will American motorists have accident claims honored by Mexican insurance carriers? If not, what will be their recourse? Under NAFTA, Mexican carriers will be prohibited from engaging in cabotage. Currently it is extremely difficult to catch Mexican drivers who drive outside of the permissible commercial zones. If this is a problem now, how will cabotage be enforced when Mexican drivers are allowed to drive throughout the continental U.S.?

The transportation industry is still reeling from the job loss and upheaval caused by the Motor Carrier Act of 1980 and other misguided deregulation policies of that era.

NAFTA will again tax the resources of state officials and governments who are already overburdened by increased enforcement activity. Federal policy makers or trade negotiators have failed to address the number of jobs that will be lost as a result of Mexican drivers who deliver goods from Mexico to the U.S. and backhaul American goods.

Mr. Chairman, the Committee will undoubtedly hear that Mexico is in the process of developing or has already instituted driver and truck safety standards which are, at a minimum, comparable to U.S. standards. We would strongly urge the Committee to go the border areas of California or Texas and witness first hand the types of Mexican vehicles which are currently driving in the commercial zone areas. Additionally, we would recommend that the Committee visit with drivers at truck stops, state highway patrolmen, and other enforcement officials who are dealing with today, what NAFTA will hold for the future. We challenge the Committee to investigate first hand in order to determine if the regulations Mexico has on paper are the reality on the highway. We believe this is crucial and would be happy to assist the Committee in facilitating this undertaking.

NAFTA is a bad deal for Teamster members and the working men and women of the United States, and Mexico. Massive job loss and the potential impact on highway safety is a real concern for the professional Teamster driver, highway officials and the general public. And real labor rights for Mexican workers are completely missing from the agreement. We hope you will carefully examine the issues we have raised here today when you consider your position on the North American Free Trade Agreement.

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3. 49 C.F.R. Part 391, May 13, 1986, 51 F.R. 17572 (Proposed Rules).
4. 49 C.F.R. section 391.11 (b) (2).

Mr. RUSH. In view of the fact that the chairman is over voting on the floor, and I do have an opportunity, I am going to suspend questions until the chairman returns because he has questions, but I want to make my own statement to enter it into the record, if you would bear with us until the chairman returns.

I would like to thank the chairman of this committee for convening this hearing on the labor side agreements of the North American Fair Trade Agreement. I believe that NAFTA will have a profound impact on the international labor movement.

I would like to take this opportunity to publicly state my views on NAFTA. I declined to support the initial agreement because I did not believe that it would produce any long term benefits for the United States. NAFTA was just a continuation of Reaganomics. As a strong opponent of trickle-down economics, I did not see benefit to those Americans most in need, the unemployed, minorities, the elderly, and the poor.

I also had strong concerns about environmental and labor issues. These provisions did not adequately protect North America's environment, provide remedies for labor disputes, or protect the interests of workers both here and in Mexico.

The recently completed side agreements confirmed my fears about NAFTA. American corporations have declared war on American workers. NAFTA is their corporate secret weapon. The American public is tired of hearing about hostile takeovers, mergers, junk bonds, dummy corporations, and complex paper transactions.

The people have come to realize that even though they might not understand the mechanics of the corporate highjinks they understand the effect. Proponents of NAFTA are interested in creating profits, not jobs.

It is my fundamental belief that this agreement would not produce any long-term benefits for the people of the United States. While I agree in principle with the concept of free trade between the United States, Canada, and Mexico, I don't believe that this agreement goes far enough in protecting existing jobs of American workers, as it does not provide adequate retraining dollars estimated to be at least \$5 billion per year for workers who lose their jobs to Mexico or Canada.

Information I obtained concerning my own district in Chicago proved to be very alarming. Many of the industries in my district will be adversely affected by the implementation of NAFTA, apparel and other textile industries, industrial machinery and equipment manufacturers, candy manufacturers, electronics, and other light industries.

I also received information about NAFTA's impact on minorities. Data suggests that the jobs that would be negatively impacted are the type of jobs that are disproportionately held by African American, Hispanic, and other low income workers.

Over 300,000 jobs are at risk of being lost in Illinois alone because of NAFTA. They are mostly high-wage manufacturing jobs in the automobile, electronics, food processing, apparel, and appliance industries. These industries have traditionally been the principal path of upward mobility for African-Americans and other minorities.

From across the border in Mexico, I received still more alarming information. As a member of the Committee on Banking, Finance, and Urban Affairs, I received testimony regarding the financial services chapter of NAFTA. The testimony revealed the entrenched and widespread corruption within Mexico's political and economic system.

The Salinas government has allowed a few individuals to sabotage the country's economy to the point of collapse. Mexico's overvalued peso and unpredictable economy are too unstable to risk major investment by United States banks. Mexico's banking system is unregulated uninsured and mismanaged. United States banking subsidiaries investing in Mexican banks claim investment is reasonable because the Federal Reserve will be responsible for regulation.

However, I fail to see how the Federal Reserve has the jurisdiction to effectively regulate banks in another country or foreign investments insured by the Mexican Government. Once again, the American taxpayer would be responsible for the unsound investment decisions of the fat cats. Investment in the Mexican banking system potentially bears an uncomfortably close resemblance to the S&L debacle.

We are receiving testimony today concerning NAFTA's effect and what I am hearing is not reassuring. The agreement fails to raise the minimum wage of Mexican workers, laborers who are currently working at \$4.66 a day or 48 cents an hour to be competitive with the American worker. This provision alone belies the arguments of those who say this agreement will automatically raise the standard of living for Mexican workers to make their economy comparable to the United States, thereby resulting in a reduction of the flow of Mexican immigrants to the United States.

Mr. Chairman, I do have some additional comments, but in view of your return, I would just ask that I be allowed to introduce my statement into the record.

Mr. PETERSON [presiding]. The full statement will be included in the record, without objection.

[The prepared statement of Mr. Rush follows:]

THE HONORABLE BOBBY L. RUSH  
OPENING STATEMENT FOR  
EMPLOYMENT, HOUSING & AVIATION SUBCOMMITTEE  
HEARING ON NAFTA  
SEPTEMBER 9, 1993

Mr. Chairman, I would like to thank you for convening this hearing on the Labor Side Agreement of the North American Free Trade Agreement. I believe NAFTA will have a profound impact on the international labor movement.

I would like to take this opportunity to publicly state my views on NAFTA. I declined to support the initial agreement because I did not believe that it would produce any long-term benefits for the United States. NAFTA was just a continuation of Reaganomics. As a strong opponent of trickle-down economics, I did not see any benefit to those Americans most in need, the unemployed, minorities, the elderly and the poor. I also had strong concerns about environmental and labor issues.

These provisions did not adequately protect North America's environment, provide remedies for labor disputes or protect the interests of workers both here and in Mexico.

The recently completed side agreements confirmed my fears about NAFTA. American corporations have declared war on American workers. NAFTA is their corporate secret weapon. The American public is tired of hearing about hostile takeovers, mergers, junk bonds and dummy corporations. The people have come to realize that even though they might not understand the mechanics of corporate highjinks, they understand the effect. Proponents of NAFTA are interested in creating profits, not jobs. In their greed, the Wall Street players have cost the jobs of tens of thousands of workers. Now these same players are trying to pull the biggest scam of all -- NAFTA.

It is my fundamental belief that this agreement will not

produce any long-term benefits for the people of the United States. While I agree, in principle, with the concept of free trade between the United States, Canada and Mexico, I do not believe this agreement goes far enough to protect the existing jobs of American workers, as it does not provide adequate retraining dollars (estimated to be at least \$5 billion per year) for those workers who will lose their jobs to Mexico or Canada.

Information I obtained concerning my own District in Chicago proved to be very alarming. Many of the industries in my District would be adversely affected by NAFTA -- apparel and other textile industries, industrial machinery and equipment manufacturers, candy manufacturers, electronics and other light industries.

I also received information about NAFTA's impact on minorities. On the national level, the jobs that will be

negatively impacted are the type of jobs which are disproportionately held by African American, Hispanic and other low-income workers.

In Illinois alone, over 300,000 jobs are at risk of being lost because of NAFTA. Many are high-wage, manufacturing jobs in the automobile, electronics, food processing, apparel and appliance industries; Industries which have traditionally been the principal path of upward mobility for African Americans and other minorities.

From across the border in Mexico, I received still more alarming information. As a member of the Committee on Banking, Finance and Urban Affairs, I received testimony regarding the financial services chapter of NAFTA. The testimony revealed the entrenched and wide-spread corruption within Mexico's political and economic system. The Salinas

government has allowed a few individuals to sabotage the country's economy to the point of collapse. Mexico's overvalued peso and unpredictable economy are too unstable to risk major investment by U.S. banks. Mexico's banking system is unregulated, uninsured and mismanaged. U.S. banking subsidiaries investing in Mexican banks claim investment is reasonable because the Federal Reserve will be responsible for regulation. However, I fail to see how the Federal Reserve has the jurisdiction to effectively regulate banks in another country. Nor are these foreign investments insured by the Mexican government. Once again, the American taxpayer will be responsible for the unsound investment decisions of the fat cats. Investment in the Mexican banking system potentially bears an uncomfortably close resemblance to the S&L debacle.

As a member of the Government Operations Committee,

Subcommittee on Employment, Housing and Aviation, I received testimony from Mexican workers, economists and activists. What I heard was not reassuring.

The agreement fails to raise the minimum wages of Mexican laborers (currently \$4.60 a day or .48 cents an hour) to a level competitive with those of American workers. This provision, alone, belies the arguments of those who say this agreement will automatically "raise the standard of living for Mexican workers" to make their economy comparable to the United States, thereby, resulting in a reduction in the flow of Mexican immigrants to the United States.

I listened to stories of intimidation and violence against Mexican workers who were exercising their Constitutional right to organize and form labor unions. I heard of widespread corruption of union and government officials. I heard of

schemes by corporations to cheat workers out of their rightful share of corporate profits. I listened to workers describe horrible living conditions they were forced to endure to retain their employment. And far too frequently, I heard of substandard wages, ranging from \$1.50 to \$2.00 per hour. All evidence points to the fundamental exploitation of Mexican workers by the government, unions and corporations. I refuse to contribute to the misery and suffering endured by the people of Mexico.

The agreement also does not address the problem of border control. NAFTA will not slow the tide of illegal immigration, nor does it attempt to deal with pervasive drug trafficking. The proponents of NAFTA claim that the agreement will slow down illegal Mexican immigration. Most experts agree that NAFTA will either have no impact on immigration or will make it worse.

Because increased Mexican wage claims are false and because NAFTA will draw Mexican workers to the border areas, thousands will still climb the fences and cross the rivers to the U.S.

Drug trafficking is rampant in both the United States and Mexico. NAFTA fails to address the holes in our borders which allow drugs to flow practically unchecked into the United States. The Salinas government allows corporate investors and bankers to remain anonymous. There is no way of knowing whether U.S. investors are doing business with legitimate businessmen or drug dealers.

Despite this overwhelming and alarming information, I refrained from coming out strongly against NAFTA until the environmental and labor side agreements were negotiated. I had hoped that my concerns about the lack of environmental

safeguards and adequate labor regulations would be addressed to my satisfaction. Unfortunately, that was not the case.

I have considered the provisions of the environmental and labor side agreements in relation to current NAFTA provisions and still find them lacking. There are still no environmental safeguards, no enforcement provisions, and no remedy for noncompliance. The labor side agreement is even more disappointing. It does little to protect the rights of individuals or promote decent wages and working conditions. Finally, even if a complainant survives all the red-tape and a company is found in violation of NAFTA, guess who pays the fine -- the taxpayers.

Nor will I cast a vote that will reward the actions of a corrupt and repressive government. NAFTA pays the Salinas government to continue its illegal and unconstitutional practices

that exploit and deprive its citizens. The fat cats of Mexico have gotten together with the corporate elite in the United States and created an agreement that sucks the lifeblood from the people of the United States and Mexico, all in the name of profit.

Mr. Chairman, for these reasons and others, I have decided to vote against the North American Free Trade Agreement.

Mr. PETERSON. I appreciate your filling in for me. I apologize for all the commotion here. I don't know why we went and voted. It was 417 to nothing.

Mr. ZELIFF. Tough votes; nonpartisan.

Mr. PETERSON. We need more of those.

I have a few questions here. Mr. Williams, in your view, do you think there are any teeth in this labor side agreement that are going to make anything work?

Mr. WILLIAMS. No, not to speak of. It is very limited in what it really attempts to do and the process that it does provide is very complicated and convoluted and it is difficult to see it would result in anything substantive. We are very disappointed in the side agreements.

Mr. PETERSON. My reading of this, the areas they have focused on, health and safety, minimum wage, and child labor laws, as I understand it they only apply to the trade sector, businesses that operate in the trade sector in Mexico, and those issues are not a problem in that sector of business there; they are a problem in other areas.

We had testimony in this committee about the difficulty to organize and bargain, et cetera, in Mexico which was left out of this agreement, apparently. Why is the right to organize so critical? Why would that make a difference if that were part of this agreement?

Mr. WILLIAMS. The reality is clearly fundamental, if you are going to try to have a level playing field or if workers are going to raise their incomes and their benefits, they need to organize unions. That is the experience in America and would be in Mexico, that is the experience everywhere in the world.

In a very fundamental way, one of the difficulties in having this agreement with Mexico is that Mexico is not by our standards, really a democracy. The official labor movement in Mexico is very controlled. When an independent labor movement attempts to raise its head as has happened in the Maquiladoras, the government is brutal in its suppression of those efforts by the workers, so this is particularly critical in this circumstance.

In my formal testimony, I mentioned that the European Community didn't admit Spain and Portugal because of the stage of their economic development, but another aspect of that is they didn't permit them in until they became democratic countries too, until there were guarantees that workers could make progress and workers could bargain and workers could move forward. So that is a critical piece of a successful side agreement, one we could support.

The trade sanction, the idea that you can really get at violations as you mentioned and we have come close to in GSP, is not here. Our hope was that something like that would be here. Most fundamental of all, if we are going to have agreements, this is one of the things that is critically important. This is not the end, this is the beginning.

The objective of those interested in these kinds of agreements is not simply to Mexico, but to extend this to the rest of the Americas. If we are going to do that, and arguments can be made for that, we surely should be building agreements around economic development, around economic growth that have real projections and real

opportunities in them and real demands in them and measuring posts in them for increasing wages and increasing benefits and bringing folks up, not just talking about doing something about the minimum wage in some minimal way, but about the whole standard of living in these societies relative to ours so they can really become customers.

Mr. PETERSON. Along those lines, do you think that the Federal programs for dislocated workers are any good or are working?

Mr. WILLIAMS. Mr. Chairman, that is a big question. The TAA, Trade Adjustment Assistance program, has certainly been very significant over the years for a great many of our members and it has been a plus and provided some income as well as training opportunities, so there has been good experience there. It has been varied. It was very good at the beginning of the difficulties.

During the Reagan-Bush years, it was much more restricted in application, much more difficult to achieve. Voluntary restraint agreements in steel made that more difficult. Laterally it has been more amenable. It is there for workers who lose jobs because imports come into the country. Here we have the question of workers losing jobs because the jobs are exported out of the country.

It is a different kind of thing. The rest of our training stuff has been pretty inadequate. The administration is talking much more positively about this. There are useful ideas out there. We are concerned about whether TAA is threatened by those ideas.

Are we going to be willing to step up to the bar if you will and provide adequate resources for training?

Mr. PETERSON. What do you think the President needs to do in order to make a program that is going to work to take care of the people that lose their jobs that are exported to Mexico, funding them and making sure they work?

Mr. WILLIAMS. I think the TAA idea needs to be improved. We need to think about moving the rest of the standards and training up to those kinds of levels and I think we need to think about having much more significant resources available for training.

Fundamentally one of the difficulties is training for what? If you don't get the macroeconomics working, if you don't really provide jobs, you can do a lot of training that becomes an exercise in futility. I am not opposed to it, don't misunderstand. I think it is better for unemployed people to have an opportunity to train than not to train. But what is most fundamental is having the macroeconomics right so we have jobs in our society and opportunities for trained people to go to work.

NAFTA as it presently exists will take away jobs, particularly high-wage jobs that are moved off to Mexico to take advantage of low wages rather than providing increased opportunities.

Mr. PETERSON. Are you voicing the views of most of organized labor today?

Mr. WILLIAMS. I can't think of anyone in organized labor who would disagree with anything I have said up to this moment.

Mr. PETERSON. I figured that.

Mr. Skelton, how many jobs for American truckers do you estimate could be lost to Mexican carriers if NAFTA is passed?

Mr. SKELTON. Several thousand. I couldn't give you an exact estimate because I primarily deal with the ones in the teamster sector of the industry, the organized sector. Several thousand.

Mr. PETERSON. Why do Mexican carriers already have access to the United States commercial border zone, but United States carriers can't get into Mexico until 3 years after NAFTA is signed?

Mr. SKELTON. We believe that from news articles and such that it is allowing the Mexican industry and corporations and stuff to build up and to gain strength while—by keeping us out of there it is allowing them to get stronger and stronger coming this way.

Mr. PETERSON. I understand that many major United States American trucking companies have set up partnerships or joint ventures in Mexico.

Mr. SKELTON. Yes.

Mr. PETERSON. If NAFTA is approved, won't these companies hire low-wage Mexican truck drivers?

Mr. SKELTON. That is one of our fears. To compound that, when they get into the country, at a much lesser wage than our people. If we are sending people that way at \$17 an hour and they are sending people here at \$7 a day, we are worried how far in the country they will get and how many of our jobs they will take.

When they get here and make a delivery, they will back haul and there goes another job.

Mr. PETERSON. Mr. Zeliff, do you have questions?

Mr. ZELIFF. Yes. Thank you.

I think the debate on the side bar agreements unfortunately is going to pretty much center around how structured they are and, to the degree where we depart from just trying to remove the trade barriers and reduce the barriers and the tariffs, to how much we force Mexico to comply with some of our own social standards.

In so doing, I think that is pretty much where it is going to center. I am trying to look at it from the New Hampshire point of view because those are the people that I represent. In New Hampshire—I am trying to look at the major issue, jobs, whether it is a net creator of jobs or a net loss of jobs—since 1986, we have had a 286 percent increase in trade to Mexico. According to the numbers that I used in my statement, we have gone from 1986 from a negative \$4.9 billion to a surplus of \$6 billion and obviously the jobs in the State of New Hampshire and the country, there were jobs created in order to support that level of trade.

I also look at Mexico, where for every dollar imported, 70 cents goes to United States products, and another statistic that I will throw out and if anybody has different information, but for every \$1 billion worth of trade, we support some 22,000 jobs.

I have tried to look at major employers in New Hampshire, and I called some yesterday in preparation for the hearing; General Electric at Summersworth, the major producer of meters around the world; Cabletron, which is a major employer relative to computers; and Digital and Velcro and Hitchner and Lockheed Sander and Textron and James River—I called the State and got the major list of employers in terms of jobs, and went down the list and called them relative to NAFTA.

I think that the concern that I have here is that we want this to be a win-win. You are talking jobs, I am talking jobs. And when

I look back in Mexico prior to 1986, their economy was pretty much in shambles, a lot of corruption, a lot of problems, but under President Salinas, I think we have come a long way.

In my judgment, correct me if I am wrong, if we continue under the pattern and we have lost some companies in New Hampshire that have either gone to Mexico or offshore without a NAFTA agreement, so I can't say that they made that decision irrespective of anything relative to NAFTA. In my judgment, they probably made it because of the tremendous regulation we have and some of the blockades that we have in terms of doing business in our State and our country, perhaps. But I would have to think with the positive trends that we have seen with Mexico, both from the United States and from our State, and the jobs that have been created, shouldn't we really deal with productivity?

We hold the best record of productivity. Our American workers take a back seat to no one. Shouldn't we zero in on that rather than the wage base, and with regard to the more improved trade, won't that bring up the standard of living in Mexico and won't it also create better opportunities for imports?

You might want to comment.

Mr. WILLIAMS. You raise an enormous number of questions. I wish I knew—

Mr. ZELIFF. I am afraid we are going to have to vote.

Mr. WILLIAMS. I wish I knew the New Hampshire statistics. I don't. What concerns me most in terms of the general direction of your remarks is what I refer to as the China syndrome. It is true we have had some exports to Mexico, but a lot of it is capital goods. A lot of it is our multinational corporations moving things down there to prepare for production in Mexico.

Sixty percent is stuff that multinational corporations are making down there that they are shipping back into the American market and so we have a surplus of the trade with Mexico at the moment. That has declined precipitously by 50 percent in the first 6 months of this year as compared to last year.

Think about the Chinese circumstance. We went through exactly this. We went through a great business where we had a surplus of trade with China that was being hailed as a new day for exports. Now the flood of goods from China is one of our great trade imbalances second only to the Japanese, and a piece of that problem is that we shipped over the things to enable them to make them and ship it back into America.

Here it is complicated—this is true to some degree in China—but in Mexico, it is our own corporations taking jobs that would be performed in the United States and moving them down to Mexico.

We had some meter workers in Uniontown, PA, where the company came along and said we want you to take a \$6 cut in wages or we are going to send the jobs to Mexico. Our people understandably refused. Their jobs consequently went to Mexico for 79 cents an hour. The meters are shipped back in the United States and sold in the same market and instead of providing \$10 an hour jobs for many workers in Uniontown, PA, they are being performed in Mexico at 79 cents.

Mr. ZELIFF. Isn't the primary goal of the NAFTA that once we get rid of trade barriers we increase trade? Isn't the key to our future international trade?

Mr. WILLIAMS. Sure, but it is trade in some balanced way. We have to plan this. The European common market is an instructive example. They have improved trade and trading relationships but not helter-skelter. They haven't thrown their borders open. They planned for it. The industrial revolution improved living standards over the long term, but it destroyed life for a couple of generations of people.

And surely if we look backwards into that time with what we know since, and all of our sophistication, we could figure out a way to go from A to B without all that destruction. And yet we are inviting just that kind of destruction in America and not doing anything for the Mexican workers. They can't improve. We are providing an opportunity to simply go and exploit Mexican workers. Their real wages have declined over the last 10 years.

Mr. PETERSON. Can you gentlemen stay with us?

Mr. WILLIAMS. I am going to have a very difficult time doing that. I am sorry.

Mr. PETERSON. Mr. Skelton. Well, we appreciate your time.

Mr. WILLIAMS. I am awfully sorry but I have committed to catch a plane.

Mr. PETERSON. We have to run and vote. Mr. Skelton, if you want to wait. Mr. Williams, we appreciate you being with us and the time that you have given us. We are going to recess.

Mr. ZELIFF. I appreciate your testimony very much.

Mr. WILLIAMS. Thank you very much.

[Recess taken.]

Mr. PETERSON. The subcommittee will come back into session.

I appreciate you staying, Mr. Skelton. I don't know if the other members are going to get back. I understand that we have 1 hour that we are not going to have a vote. Maybe we can get on to the other witnesses before we have another vote.

Will Mexican truck drivers have to understand English well enough to read traffic signs and take directions from State troopers under NAFTA?

Mr. SKELTON. Currently there is no law. They don't have to be required now to understand English. And having personal experience driving in Texas and Oklahoma and that, it is very hard to understand the ones that can speak English.

Mr. PETERSON. Don't American truck drivers have to be able to speak English?

Mr. SKELTON. Read and write.

Mr. PETERSON. So there is a difference there. Will they have to pass the same tests that the States require for their own citizens before they can be granted a trucker's license?

Mr. SKELTON. No. The Bush secret agreement, if you will. They are going to honor the Mexican requirements only.

Mr. PETERSON. Mexican license.

How did that happen, do you suppose? Why did we agree to that?

Mr. SKELTON. We didn't agree to it.

Mr. PETERSON. No, no, why did President Bush and the negotiators agree to that?

Mr. SKELTON. I have no idea.

Mr. PETERSON. Did you ever ask anybody?

Mr. SKELTON. We have asked on several occasions and we have never been afforded an answer; more or less a fact-shuffle answer. I was hoping Mr. Zeliff could come back so I could add something that I wanted to say to him.

Mr. PETERSON. I think he is on his way back. I think Mrs. Thurman had some questions too. I think I walked faster than the rest of them did.

Do you think United States truck drivers should have to be able to read Spanish to drive in Mexico?

Mr. SKELTON. Well, if we were going to be driving down there on a regular basis, I would hope that we could, you know, we would be required to read all of their signs. I want them, when they are up here when it says tunnels, no explosives—I think you do too.

Mr. PETERSON. So, what we have here apparently is another aspect of the agreement where it basically is going to override U.S. laws?

Mr. SKELTON. Yes, sir, that is our understanding.

Mr. PETERSON. And it could go, I think during your testimony you said this could go all over the United States? They could end up—there he is—they could end up hauling all the way up to Minnesota?

Mr. SKELTON. Sure, that is our understanding. They could get into there. Another thing that worried us is the requirement of 18 years of age. I also started driving when I was 18 years old. And as a second generation driver, my father before me was a driver, I had to stay local in St. Louis, my hometown, I had to stay a local driver until I attained the age of 25. And then I went on the road.

By the time I was 24, I had 1 million accident-free miles and I was very proud of that because the company required, they required the training. They required that I have certain qualifications. The union provided those, along with the company. They made sure we were trained so we could be the best there were out there on the road.

And they monitored, sometimes governed our tractors where we couldn't go over certain speeds. We had running times, established running times. Some of these people now, they just open these trucks up and if you have an unsafe truck coming up with no brakes and the guy decides to run 80 down the mountain side, we have a problem.

Mr. PETERSON. Mr. Zeliff, Mr. Skelton had some answers to one of your questions, I think.

Mr. SKELTON. One of the issues that you raised earlier with respect to the fair trade statement was that I had the opportunity or the misfortune, I guess, if you will, to attend a meeting called by Congressman Bernie Sanders up in Bells Falls, VT.

Mr. ZELIFF. St. Johnsberry. My office was there.

Mr. SKELTON. One of the things that troubled me was looking out into the room. Just under the effects of deregulation alone the company claimed that the competition was too intense and put them out of business. Most of the competition were legitimate carriers that because of deregulation were able to cut their rates and eventually squeeze the little guy.

If the free trade agreement and the labor side agreement stands as it is proposed, we are going to have the same thing here. The little guy being the lesser paid Mexican worker or driver or whatever, is going to be able to squeeze us. I mean, the corporate mentality is going to go where it is cheapest. Plain and simple. I have seen it.

The division I run, the national freight division, since 1980 went from over 300,000 members—just union sector of trucking—300,000 members down to currently 130,000. And that is one of the things that worries us as a union. And I am just speaking for the segment of the trucking industry that we represent.

Mr. PETERSON. If you don't mind, I am going to give the gentleman from Illinois—if you have any questions.

Mr. RUSH. Sure. Thank you very much.

Mr. Skelton, it seems to me that there is a lot—the arguments of the proponents of NAFTA, a lot of their argument is based on the personality of President Salinas. They have indicated that he has done a remarkable job over the last few years. And I don't necessarily agree with that. But a lot of argument is based on that.

But I know that under current Mexican law, President Salinas cannot run for reelection. Do you have any idea or any comments on what you think the future of the Mexican Government, the effect it would have on this agreement without President Salinas?

Mr. SKELTON. I would be extremely worried about it. Because not knowing the character of the next person to come in, you don't know where it is going to go.

Mr. RUSH. Are you—do you have any information about the individuals from the Mexican Government who actually participated in the negotiation for these side agreements? Do you know who they are?

Mr. SKELTON. We don't have that information with us.

Mr. RUSH. The reason I ask that question is because, as I indicated earlier, I am on the Banking Committee, and it is one of the most well-protected secrets; who participates in these side agreements. I just wanted to know: Did you have any information who participated in the side agreement on the labor relations chapter?

Do you know whether or not there have been any provisions made in the agreement about retraining American workers who lose their jobs; members of your union who lose their jobs because of NAFTA?

Mr. SKELTON. Well, I understand there has been some commitment and I think it is contained in the side agreement about retraining. And I think Canada talked some with us when we met with them and the other officials. But what are you retraining them for? Retraining them for what? So that you can openly admit to them that their government made a deal to give away their job? I don't buy that. I have 150,000 or so they can start with if they are retraining people.

Mr. RUSH. Is it true that NAFTA does not enforce the international worker's rights standards?

Mr. SKELTON. That is our understanding.

Mr. RUSH. And can you explain how it varies, how the NAFTA agreement differs from the standard?

Mr. SKELTON. I will let Bob Nicklas handle this.

Mr. NICKLAS. Could you repeat the question again?

Mr. RUSH. How does the NAFTA differ from the standard of the international worker's rights concept?

Mr. NICKLAS. There is a difference between rhetoric and enforcement that would actually put teeth behind what is said. In the preamble to the side agreement, there is a great deal of discussion about the need for labor rights and all sorts of benefits that the workers should get under any type of agreement.

When you get into the actual text of the labor side agreement as the testimony presented by Lynn Williams and Dennis pointed out, there is nothing in terms of labor standards or environmental or consumer standards. It is all based on what we might be able to enforce and minimum wage labor laws and a few other things can be enforced. The rest of the things are absent. There are no standards. There is no teeth. It is a rhetorical piece of paper that has no enforcement bylaws behind it.

Mr. RUSH. Thank you.

Mr. PETERSON. Thank you, Mr. Rush.

The gentlelady from Florida, do you have any questions?

Mrs. THURMAN. Mr. Chairman. Since I wasn't here for some of the questioning, with unanimous consent, if I could offer questions after looking at the testimony, I would appreciate it.

Mr. ZELIFF. May I add a couple?

Mr. PETERSON. If you are brief. What I am trying to do, we have 1 hour before another vote and I was going to try to get the next panel on before we are interrupted.

Mr. ZELIFF. Let me just ask anyone. Mr. Skelton, United States truckers are currently able to drive their loads into Mexico, are they not?

Mr. SKELTON. No.

Mr. ZELIFF. Isn't it true that NAFTA will for the first time permit United States truck drivers to access the Mexican border?

Mr. SKELTON. Eventually. There is a 3-year period on that.

Mr. ZELIFF. The other question is a general one. Don't you feel that the improvement of Mexico's economy since 1986 under President Salinas has done a lot of good for American workers, I mean compared to prior to 1986? You don't?

Mr. SKELTON. I don't. No. And, you know, I really—looking at \$4 a day comparatively to what our people make, we are a diversified union, we have some salaries, for the members that we protect. But comparatively, it worries me.

Mr. ZELIFF. OK. In the interest of time, I had several questions.

Mr. PETERSON. If you want to submit some questions, I am sure they would be happy to answer them.

[The information follows:]



**United  
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November 9, 1993

**MEMORANDUM**

**TO:** Employment, Housing and Aviation Subcommittee  
**FROM:** Lynn R. Williams, International President *BSW*  
**SUBJECT:** NAFTA questions from Congressman Zeliff

Please find enclosed my written comments to the questions submitted by Congressman Zeliff relative to my testimony in opposition to the NAFTA negotiations, the response to which will be printed in the final record.

Enclosure

RESPONSE OF LYNN WILLIAMS  
TO QUESTIONS POSED BY  
THE HONORABLE WILLIAM ZELIFF

8/11/93

1. **Q** The lessening of Mexican trade barriers has resulted in a significant and growing trade surplus with that country, and a corresponding growth in trade-supported jobs in this country. Both the present Administration and the previous one have maintained that trade with Mexico currently supports 700,000 jobs in this country, and that NAFTA will leverage further job growth. The growing trade relationship with Mexico has even benefitted New Hampshire, supporting thousands of jobs in the state. Since NAFTA will further eliminate trade barriers, how can you maintain that the trade agreement is bad for this country?

**A** In calculating the job impact of trade with Mexico uncontested statistics are hard to find. The 700,000 jobs attributed to current trade levels apparently do not take into consideration the loss of U.S. jobs if, for instance, the assembling of American-made products is transferred to Mexico. The American jobs involved in the handling of the exports of the Mexican-assembled products are counted, however, no discounting of the assembly jobs occurs. Thus even the 700,000 jobs statistic is doubtful.

By all accounts, even the uncertain job growth projections are very marginal. The United States International Trade Commission notes a net of 171,000. However, this statistic masks the loss of 150,000 to gain the marginal growth. And that is the point. The workers who lose jobs are not those who gain.

Furthermore, the elimination of trade barriers is not the only purpose of NAFTA. It is also intended to accelerate the investment of American capital in Mexico. The loss of this capital will have an additional adverse impact upon jobs and the productivity of American labor.

2. **Q** The United States is presently the world's largest exporter, and we will rely increasingly on international trade to maintain our prosperity in the future. Obviously, expanding the export of American goods and services demands a lowering of trade barriers maintained by other countries, which is what NAFTA will force Mexico to do. How will rejecting NAFTA improve our trading position?

**A** Mexico is also part of current GATT negotiations where reciprocal trade reductions are being negotiated. Rejection of NAFTA is not a rejection of the world-wide trading system. U.S. trading position is more dependent on the

multilateral GATT than on bilateral arrangements. Under GATT, further tariff reductions - even by Mexico - are expected. The rejection of NAFTA does not, therefore, impair the potential for further trading opportunities.

3. **Q** The American worker is at least five or six times more productive than his or her Mexican counterparts, and is better equipped to handle changing technology. Mexico simply cannot meet the demand for workers with higher, technical skills. Do you agree or disagree with this point of view? Isn't it safe to say that the American worker is well equipped to handle competition from Mexico?

**A** It is not a given that the low level of Mexican labor productivity means that the Mexican worker is not competitive. As a matter of fact, there are a number of accounts which indicate that Mexicans can and are duplicating the productivity of American workers if given the proper technology. What is at stake are the low wages which can have an adverse impact upon the American wage base. This phenomenon has been described as the low-wage strategy which could depress American higher standard of living.

4. **Q** My impression from your testimony, and from others I have heard, is that the US should use trade agreements, not to expand markets for US goods that create jobs, but to leverage social policy in other countries. I don't question the fact that our trade policies should reflect our commitment to human rights, but shouldn't our main priority be to expand our economy and create more jobs here at home?

**A** It is not inconsistent to insist that trade agreements should also serve social objectives: human rights, labor protections, environmental standards. Linkage of trade policy to labor and environmental policies is already evident in that trade rules have been used to challenge more stringent social regulations as being non-tariff barriers. Because of this threat, these social regulations have been subjected to relaxation pressure. Furthermore, the lack of adequate labor and environmental standards among our trading partners, in the reverse, pose as an unfair trade advantage for goods which are produced at a lower cost due to poorer standards.

Instead, the integration of these policies could promote a more global attainment of these social obligations. In other words, trade agreements

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can not be evaluated only in economic terms. We do not in our internal market accept the proposition of production at any social cost. We do have federal standards of clean air, minimum wage, OSHA, etc.

5. **Q** You contend that the side agreement on labor, which allows fines and trade sanctions for persistent violations of a country's labor laws, to be ineffective. On what do you base this assumption? Do we have a similar trade arrangement with another country that you have drawn historical perspective from to reach the conclusion that you have reached?

**A** The labor accord is defective, especially in the scope of its definition. It does not for instance cover the most basic of labor standards, namely the right to organize, bargain or strike. Trade sanctions which are a remedy under NAFTA do not reach to violations of the Mexican laws covering those standards. The intent of the side accord was to address problems of non-enforcement. But the labor side accord does not accomplish that purpose.

While we do not have similar labor agreements with other countries to draw a comparison with Mexico, we do have the perspective of U.S. laws, namely General System of Preferences (GSP) and Overseas Protection Insurance (OPIC), upon which to draw comparison. These laws have been implemented with regard to certain countries and trade sanctions have been applied effectively. However, the U.S. government's enforcement of the GSP and OPIC measures as they apply to Mexico could be by-passed under NAFTA.

6. **Q** I keep hearing that we cannot compete with Mexican workers making 58 cents an hour. What percentage of the Mexican workforce earns the minimum wage?

**A** The percentage of Mexican workers covered by the minimum wage is not the commanding factor. Rather it is the fact that the minimum has a downward pressure on the national average earnings, thereby assuring a substantial continued adverse wage differential in favor of Mexican labor costs. According to "Mexico: Economic & Financial Report" issued by the U. S. Embassy in Mexico, April 1993, only 10.2% of the workforce have wages five times the minimum wage and that rate is \$21.50 per day!

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President Salinas has pledged to link increases in the minimum wage to Mexican labor productivity growth. It would have been more advantageous to have linked the national average earnings to that engine. In that way, more Mexican working people would share in the trade growth and the wage differentials in the exporting sectors would decrease.

7. **Q** You referred in your testimony to the study conducted by Professor Harley Shaiken on the Mexican worker, and particularly his contention that wages in Mexico dropped 40% during the 1980's. Isn't it true that since 1987, when Mexico took action to control inflation and its debt problems, wages have increased? In fact, it is my understanding that Prof. Shaiken himself conceded to columnist Robert Novak that Mexican wages have risen 13.9 percent since 1987.

**A** Professor Shaiken has repudiated columnist Robert Novak's interpretation of his remarks. Novak, as a political columnist of a definite persuasion, is not an authority on labor productivity. Shaiken has reiterated his position that while wages since 1987 did increase, the rise was not comparable to the increase in productivity. That is his point. Mexican workers are not sharing appropriately in the growth of the economy and the wage differential with the U.S. is deliberately being maintained as a trade advantage. The failure to include in the labor accord the enforcement of the right to organize only reinforces the prospect that the lower wage base will continue to be an advantage.

8. **Q** You seem to reject the notion that NAFTA will have an upward influence on Mexican wage levels. The US Bureau of Labor Statistics has reported that the average compensation -- wages plus fringe benefits -- in the manufacturing industry in Mexico was seven percent of the US average in 1987. In 1992, that level doubled, rising to fifteen percent of the US level - \$2.35 an hour in Mexico versus \$16.17 an hour in the US. How do these facts square with your view that expanded trade with Mexico will not leverage higher Mexican wages?

**A** The question is not so much whether NAFTA will leverage Mexican wages, but whether the lower Mexican wage (\$2.35 an hour in Mexico versus \$16.17 per hour in the U.S.) will leverage both a relocation of American jobs to Mexico and a downward pressure on American wages. Again, the U.S. labor

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movement is concerned that our U.S. export trade policy is predicated on a low wage strategy.

9. **Q** I would like to examine the issue of wages further. Some US companies have relocated operations to Mexico. This has been done for a variety of reasons, such as the prospect of lower wages or the enormous regulatory burden that the federal government puts on business. However, you get what you pay for. If you move to Mexico you must contend with a workforce that is less productive than ours and an infrastructure that is light years behind ours. In fact, a recent article from the Associated Press noted the experiences of a vegetable packer, Tanimura & Antle, who set up shop in Mexico to save money. After five years, they are coming back home, contending that the low wages south of the border are more than offset by the low productivity, high employee turnover, and high costs. Obviously, this has not occurred in every case, but it does call into question the argument that we can't compete with Mexico because of the wage differential. Could you comment on this issue?

**A** It is true that companies base their decisions to locate upon many other factors. But obviously many American companies have relocated in Mexico and are staying despite other adverse factors. In time, certain transportation corridors of trade will overcome infrastructure problems and we do not contend that Mexican workers are unskilled. Some workers operate in very skilled environments and American producers, located in Mexico, indicate that the Mexican worker is very competitive. The question arises as to whether this NAFTA balances the economic value of a free trade agreement to the U.S. workers against the advantages of a GATT reciprocal trade arrangement now currently being negotiated in Geneva.

Mr. ZELIFF. I appreciate your discussion and your involvement here. It has been very helpful for me to learn the other side. I think I am the only one that is pro-NAFTA, so I am here to learn too.

Mr. RUSH. Mr. Chairman. Could I just ask one quick question?

Mr. Skelton, in terms of the improvement of the Mexican economy, would you characterize the growth of the billionaires in Mexico from 3 to 13 as being the type of improvement that your labor union would see as improving the Mexican economy?

Mr. SKELTON. I don't know any billionaires.

Mr. RUSH. Neither do I.

Mr. PETERSON. Again, we want to thank you, Mr. Skelton, for being with us today and for your patience putting up with us running back and forth. And I think that some members may submit some questions, so if you would be willing to answer those. Again, thank you very much.

Mr. SKELTON. Thank you.

Mr. PETERSON. Our second panel of witnesses—we appreciate their patience—are Marshall Breger, senior fellow of the Heritage Foundation; Lori Wallach, staff attorney, Public Citizen; and Jerome Levinson, visiting scholar of the Economic Policy Institute.

Before we proceed, the chairman of the full committee, Chairman Conyers, has a statement and, believe it or not, I don't think this is a pro-NAFTA statement, it appears.

Mr. ZELIFF. Somehow it doesn't surprise me.

Mr. PETERSON. And he has an article from the New York Times about what this is going to do in Mexico and, without objection, this will be included in the record.

[The prepared statement of Mr. Conyers, and the article referred to follows:]

Opening Statement by  
John Conyers, Jr.  
Chairman of Committee on Government Operations  
before  
Subcommittee on Employment, Housing and Aviation  
September 9, 1993

I commend you, Chairman Peterson, for having this timely hearing on whether the labor side agreement can save the North American Free Trade Agreement. The NAFTA hearings you are having are building a solid record that will help both the Committee on Government Operations and the Congress in the votes that will occur later this year on whether to approve the Agreement.

It is, of course, distressing that the Administration declined your invitation to testify today. The Administration's appearance would have permitted a more complete exchange of views between those who support the Agreement and those who oppose it.

NAFTA is a union-busting, environmentally detrimental program which cannot be remedied by side agreements.

NAFTA will hurt the working people in both this country and in Mexico.

Some American firms will move to Mexico to take advantage of Mexico's low-wage labor. The Congressional Budget Office, in its July 1993 report, concludes that as many as 500,000 American workers could lose their jobs because of NAFTA. CBO also concludes that the consequences for those Americans who do lose their jobs could be drastic; according to CBO, half of the workers displaced in the 1980's either were not working or were making less than 80 percent of their previous wages one to three years later.

Moreover, NAFTA will injure the poorest Mexican peasants because they will not be able to compete with expanded sales of American corn to Mexico. The New York Times reports that a World Bank study estimates that as many as 300,000 Mexican farmers could abandon their land during the first five years because of NAFTA. They will go either to Mexico's cities -- which are already full of people without jobs -- or to the United States, where they will compete with low-income Americans for unskilled jobs.

The labor side agreement addresses none of these issues.

It doesn't even deal satisfactorily with the issues it purports to address. Mexico's Commerce Secretary Jaime Serra Puche told the Mexican Congress last month that the lengthy and complex process established by the side agreements "makes it very improbable" that sanctions will ever be imposed on Mexico. Perhaps that is the real reason the Administration refused your

invitation to testify today.

As you have stated, the labor side agreement does not require Mexico to enforce the internationally recognized right of all workers to assemble, organize and collectively bargain without the interference or repression of their government. This represents a major step backwards. Our own Generalized System of Preferences law requires that this right be implemented by those developing nations, such as Mexico, who hold "most favored nation" status for trade purposes.

In other words, the labor side agreement is a charade and does nothing to redeem NAFTA. I remain convinced that NAFTA is contrary to the best interests of American workers.

New York Times, 1/14/93, p. A3

# Mexicans Fear for Corn, Imperiled by Free Trade

**E BRAITHWORTH DEPALMA**  
International The New York Times

**SAN MATEO TEPOPOLA, Mexico** — Before they plant even one kernel of corn, the Pérez Ruenda brothers always follow the timeless Mexican custom of using the first 12 days of the year to predict the weather of the coming 12 months. It rained here last Jan. 5 so they planted in May, the fifth month, and their corn is almost three feet high.

Joel and Benjamin Pérez Ruenda firmly believe that abiding by the old tradition has brought them success, the product of 13 years of hard work. They have moved up from two mule teams to three tractors, including one they bought just last year because it was such an "año madero" — a good corn year.

But they are worried about next year. They know the custom won't help them handle the big changes that will come if the United States Congress approves the North American Free Trade Agreement and Mexico is flooded with cheap corn from the north.

"Look, we are happening to other products are allowed up, and the market gets wiped out," said Benjamin Pérez Ruenda, 36, jumping off his new Ford tractor on a misty morning in the Chalco Valley, about 25 miles east of Mexico City. "The truth is, the treaty is not going to help us at all."

## Farmers in Trouble

Even with a 15-year shelter that protects Mexican corn longer than any other country, covering the trade agreement, Mexican corn is worried. While many Mexicans would benefit from the new jobs that are expected to be created, corn farmers like the Pérez Ruendas would be hard pressed to survive the foreign competition. Peasant families could be left to starve, and thousands could be left with few choices but to abandon their land and head either to Mexico's already crippled cities or to the United States.

The trade agreement still faces a tough fight in Congress. A federal judge in Washington recently increased the uncertainty by ordering the United States Government to assess the environmental impact of the agreement, a process that could take several months. But most people here believe it is inevitable, inevitable as the cultural changes that are already under way as Mexico tries to modernize.

As people become more well-to-do, they generally consume less corn, the food of the poor, and replace tortillas, which are staples tamale. Ford tractors replace mule teams. Mexico City now has Jenny Craig Weight Loss Centers and Denny's restaurants, but whether such changes represent improvements in the quality of life or a long slide toward cultural obscurity is unclear.

"Corn still connects the Mexicans of today with Mexicans from before the conquest, but when you don't get a good tortilla in a restaurant, it's a very good indicator of the deterioration of the quality of life," said Leopoldo Arias, a Mexico City poet and environmentalist who is constantly tested by the sweet, long ago memory of his grandmother's handmade tortillas. "It's just like when the French do not find a good baguette in their restaurants. It shows something serious has happened."

## The Indian Heritage

### Corn and Mexico Evolve Together

At last the rains have come, and the dark volcanic fields of the Chalco Valley are erupting with an ancient variety of cream-colored corn.

But here and there in the jagged rows tended by Leopoldo Neria Rodriguez, a 60-year-old white mule and Agave and Paloma sprouts, an older type of corn called teosinte, a reminder of the Aztec people who lived in these misty hills half a millennium ago.

In some Indian tribes the word for incas refers only to corn. But it represents far more than food. Since Indian wanderers first decided to save shelled kernels of a tiny ear of corn 7,000 years ago and plant them the next season, corn — and corn — here it is called maize — have evolved together.

"Corn cannot grow without man and



Chalco Valley corn is made into tortillas in Tenango del Aire.

man cannot survive without corn — from the earliest times, Mexicans have interpreted this as a lesson for a life of self-sacrifice. Growing corn is a national obsession, even though this is a national, crassly, uninterested in agriculture. More than half of Mexico's land is too dry, more than half of all land is too steep for cultivation. Yet corn is grown in all 31 states by nearly three million farmers, mostly peasants working small, inefficient fields without irrigation and in the mercy of the rains. With their families, they represent nearly a quarter of all Mexicans.

Because corn comes from the land, land is an important part of Mexican life, and corn is a big factor in the economy. 1910, when the Revolution, land was seized from the Spanish owners and the land was redistributed to peasants, who used it to grow corn.

But no green revolution ever followed because corn grows most productively on large flat fields, the kind of fields that were not available. Corn yields in Mexico are one-third those of the United States. Many Mexican farmers either cannot afford or stubbornly resist improvements like tractors, fertilizers, and hybrid seeds.

Even though cultural changes are reducing the middle class's reliance on corn, Mexico's young population keeps growing by 2 percent a year, increasing the demand for corn and turning self-sufficiency into a matter of national security. A complex system of subsidies, exports, and imports by itself is inefficient and corruption. At a cost of almost \$2 billion a year, the Government buys all the corn that Mexicans produce, at nearly \$20 a metric ton, almost twice the world price. Then it buys almost twice as many tortillas to bring the price back down.

Even so, Mexico often must import corn from the United States by treaty demand. The corn is dyed green or pink at the border so it cannot be sold back to Mexico at a profit.

The price of local corn has gone so high, while other subsidies have shrunk or disappeared, that many farmers who once grew other crops have switched to corn. The production of rice, cotton, and sorghum in Mexico has dropped, while the production of corn, which has no cost, has soared. Even without a treaty such a system is unsustainable, and Mexican officials have studied alternatives, including direct payments to farmers who grow corn and other crops, and subsidies based on income.

Whatever is chosen, many live by corn face an uncertain future. Big farmers can simply switch to some other crop. Peasants who grow only the corn they eat can continue as they have for centuries. The middle class, like the Pérez Ruendas, stands to be squeezed out by the new competition and the loss of subsidies. According to the World Bank, in the first five years of the treaty, from 1945 to 2000, 100,000 families will abandon their land and head for the cities.

When they leave, they will take with them an unwritten encyclopedia of

knowledge about hundreds of varieties of corn that have been cultivated for generations until they became suited to their own weather and soil conditions. Scientists are concerned that the genetic stock that is lost may never be recovered.

Tu Americans used to supermarket yellow corn, the variety of corn grown from sturdy cobs in pink cones to those with red, white and speckled black kernels, is staggering. Mauricio R. Bellón, a scientist at the National Autonomous University of Mexico who has studied this biological diversity, says that genetic gene strains could be lost under the coming economic and cultural changes.

The International Maize and Wheat Improvement Center in Texcoco, near here, has already set up the world's largest corn test field, with nearly 13,000 different varieties. But it does not know whether they might not be able to keep up with the rate of abandonment if the economy is transformed.

## The Staff of Life

### For Mexico's Poor, Corn Is Everything

In one swift, easy motion, Graciela Palma Mancilla splits open the soil with his coa, a three-foot-long digging stick. Except for its wide steel blade, made from a discarded tractor part, the coa is a replica of the planting tool used by his great-great-grandparents.

"We planted 15 days ago," he said. "but it was just too dry. Look." He jabbed his coa into the ground near a spindly seedling. Then he dipped his left hand into a plaid pouch on his waist and took out a small handful of dried corn kernels, which he flipped into the hole.

For roughly \$10 a day, Mr. Palma Mancilla will repeat the same motions up and down long rows on the San Juan farm in Tlaxcoala, about 10 miles from Tenango del Aire. He and his wife, Paloma Mancilla, also from Tlaxcoala, have their own field of corn, but tend to it too small and hard to grow. They are too poor to have to work for someone else. That, he says, is life in Mexico.

For him, there isn't much more to life than corn. He lives with his wife, three children, and the food they grow provides them with all the energy they need. corn porridge in the morning, tortillas and beans for lunch, a stew with tortillas at night.

"Without corn," he said, "what are we going to eat?"

For him, the answer is little else. Per capita consumption of corn in Mexico exceeds 260 pounds a year, which is roughly 3,600 tortillas, or 10 tortillas a day. Almost none of Mexico's harvest goes to feed animals. Here they say an ear of corn is equal to a pig is a meal taken from a peasant.

Besides tortillas, corn is turned into soups and tamales — ground corn steamed in a corn husk. Pushcarts sell corn on the cob, rolled in a crumbly white cheese, and cups of corn kernels done in atomic chile. At midday, graciela Mancilla, a woman of 40, makes a small fire on which to cook tortillas. A rare fungus that grows on some corn husks is saved and turned into a delicacy called huitlacoche.

But even without free trade, many Mexican families already depend on what they feel about the crop. In the modern market, salty tortillas in plastic bags. In wealthier states near the United States border, people prefer more expensive, more refined tortillas.

It could be just that the northerners eat more beef, and wheat tortillas taste better with beef than do those made of

corn. But to many traditional Mexicans in the center and south of the country, that preference aligns the northerners more with wheat-eating Europeans than with the corn-eating Indians of their past.

## The Mighty Tortilla

### Corn Loses Its Hold On Many Mexicans

Walls once yellow are stained greasy gray. A conveyor belt runs ceaselessly and the gas-fired flames of the oven, exhausted into the garage-sized room, give the María Elena Tortillería in the mountain village of Tenango del Aire all the charm of a bus terminal.

Mario Sánchez, 18, figures that on an average day he makes and sells about 12,000 tortillas at the María Elena, one of about 24,000 small tortilla-making shops in Mexico. On a special day like the annual pilgrimage to Tenango del Aire's patron saint, John the Baptist, he could go through 35,000 tortillas, especially if they are blue ones made from black corn.

The corn he uses comes from the Chalco Valley, the fields of Mr. Rodriguez, the Pérez Ruenda brothers and the farm where Graciela Mancilla works. The shop on Tenango del Aire's main street thus completes an ancient cycle of planting, harvesting and tortilla-making that Cortés found in 1519 when he landed on the coast of Mexico.

Outside the shop counter, hoping to rush home before the rains started again, Emma Chong bought a kilogram (2.2 pounds) of tortillas, about 35 of them at a cost of one peso — 33 cents. Mrs. Chong said she, her husband and their 6-year-old son, Carlos Aníbal, would not finish them for a week, they much prefer bread.

Her mother, Concepción Varela, also bought a kilo, but she and her husband will finish them in two days. She said that her 80-year-old mother had not gone a day without eating corn since she was a day old. She said she, her husband and their 6-year-old son, Carlos Aníbal, would not finish them for a week, they much prefer bread.

"You see how my children like bread and tortillas," she said. "It's the way the way her family and Mexico were changing right before her eyes, how their roots seemed no longer to run so deep, and how corn for many no longer was so important. All so different." But I'll tell you," she said, defiantly, proudly, "for me and for my husband, the tortilla still is everything."

## General Powell Is Assuring Kuwait on U.S. Commitment

**KUWAIT, July 11 (Reuters) — Gen. Colin L. Powell, Chairman of the Joint Chiefs of Staff, arrived in Kuwait today for his first visit to the country that he helped free from Iraqi forces in the Persian Gulf war of 1991.**

General Powell said he was bringing greetings from President Clinton and the leaders of the United States' commitment to the security of Kuwait in meetings with Government leaders.

"I'm retiring shortly," he said, "but I could not retire without coming here for the first time to see the rebuilding effort that has taken place, and to reinforce our assistance again to the people of Kuwait, to reassure the leadership of Kuwait, that America remains committed to the security of this country."

Mr. ZELIFF. Mr. Chairman, for equal time, could I submit two articles for the record: "NAFTA Is The Right Way To Go: All That is Needed is Leadership" and "NAFTA and Mexican Wages."

Mr. PETERSON. Without objection. You are a wonderful American.

It is the policy in the Government Operations Committee hearings which are investigative hearings to swear in all witnesses so that we don't discriminate against any of them. Do you have any objection to being sworn in?

Please rise.

[Witnesses sworn.]

Mr. PETERSON. Thank you and be seated.

Mr. Breger, I think you are another one—probably the other person in the room that is pro-NAFTA.

Mr. BREGER. Well, we haven't checked in the back of the room.

Mr. PETERSON. You are a brave man for being here. We will start with you. Your written testimony will be included in its entirety. If you want to summarize, that would be acceptable and appreciated, probably. And we will try to get through this before we get into any more votes.

Thank you.

Mr. BREGER. You have my written testimony, so I will be brief in the interest of time.

And hopefully we can have time for questions.

Mr. PETERSON. Great.

#### **STATEMENT OF MARSHALL J. BREGER, SENIOR FELLOW, HERITAGE FOUNDATION**

Mr. BREGER. We are here to discuss the labor side agreements and NAFTA. My concern, frankly, is that the opponents of NAFTA oppose the relationship between Mexico and the United States as a zero sum game.

We win, they lose; we win, they lose. They do it in the economics sphere, not recognizing that the Mexicans import 70 percent of their imports from the United States. And as their wealth increases, they will buy more from us and our wealth will increase. And they are doing so. I am sorry to say, however, also in the discussion about the labor side agreement the modus operandi of the discussion seems to be, how much can we punish Mexico? How much of a cop can we make the so-called Labor Commission?

Now, I have to point out first that you will have the responsibility of voting on a trade agreement, not a social engineering agreement. Your job is not to make Mexico more like us culturally but to decide whether the benefits of free trade are worth its cost. And I believe it is.

I believe, to some extent, the entire discussion about the side agreements are, I am sorry to say, political theatre. The labor side agreement and the Labor Commission can do a great deal of good, and I think will do a great deal of good, if it focuses on where it ended up in this final draft; on technical assistance, on collaboration, on providing an opportunity for dialog and discussion and giving information on both sides as to labor conditions and to ways of collecting statistics, on improving methods of inspection in the safety and health area.

All of this—and the side agreement does all of this—is very, very positive. I can tell you from my own experience, when I have gone down and met with government officials and with practicing lawyers and with union officials in Mexico, that they know nothing about our labor law and practices. We are some kind of myth, some capitalist myth dripping with blood to them.

And I have been in conferences with American law professors and Mexican labor practices are also something exotic and something that we know nothing about. Technical assistance would be a tremendous boost to both countries and that is what you will get in the first instance out of the Labor Commission, not what I call the punishment mode, which is what many of the critics of NAFTA and the Labor Commission are complaining that it doesn't have enough of.

And in that respect, I think the fact that sanctions are a last resort, not a first resort, is a positive thing. The focus of the Commission should be on achieving consensus and resolving disputes, not on creating an international court to micromanage United States or Mexican labor law.

In particular, let me speak to one of the points of complaint: That the Labor Commission cannot bring to arbitration before an arbitral panel disputes about collective bargaining or strikes. I think that the UAW would be very, very unhappy if its negotiations with Ford would be subject to an international arbitration panel.

I think that American companies and American unions would be pretty unhappy if collective bargaining disputes which traditionally has been free of government interference are now to be subject to an international arbitration panel or court.

And I think that the American people and the American Congress would think it a little strange that the decisions of the National Labor Relations Board [NLRB], and the Federal courts, would be subject to an international arbitral panel. And that is what the complainants are talking about when they say, hey, Mexican strikes, Mexican labor disputes won't go before the arbitral panel. They are subject to discussion by the Commission if there is a problem. Ministerial consultation. These are serious things.

Sunshine, as Justice Brandeis points out, is the greatest disinfectant and if there are complaints, these matters can be raised and discussed, but these are fact-specific complaints. And the Labor Commission, as you well know, is designed to look to patterns and practices, systemic abuses. And unless you have a conspiratorial theory or conspiratorial approach about Mexican Government and Mexican law or unless you want to put them together with Assad's Syria and Ceaușescu's Romania as totalitarian dictatorships, which I will get to further when I talk about the GSP, you would have to agree that these fact-specific areas are not amenable to arbitration at the national level, let alone at the international level.

Finally, I want to speak to one of the complaints that have been made about the Secretariat of the Labor Commission. It is a cumbersome kind of beast. Anything that is created by a committee, no disrespect, is going to be cumbersome. But there is a Secretariat. Originally, some of the anti-NAFTA people said it should be autonomous. It should be independent.

Happily, that view has been jettisoned and the Secretariat's staff will now do what a staff is supposed to do. It is supposed to facilitate and serve the principals, in this case the labor ministers of the three countries who are in the Council.

I don't think—the staff—forgive me for saying so, we want the staff to run the principals. Maybe it happens with Congressmen, but we don't want it to happen. And I don't think you want the staff to run the Council of the Labor Commission either. So I think the end result of these side agreements is positive. And with the extent to which the focus is on how the two countries can engage in cooperation for the purpose of improving labor standards, both countries will profit.

Now, as I intimated before, your view of whether the Labor Commission should be a facilitator or a robocop depends in part on your view of Mexico's labor law and Mexican law enforcement. And let me speak very briefly to these points, because there have been suggestions made that Mexican labor law is antiworker. The facts are directly opposite.

If you read Mexican labor law, it provides far more protections to unions and to workers than, indeed, American law. There is no need for striker replacement legislation in Mexico. There is no need for an OSHA reform bill, because labor management committees are mandated. Workers get a mandatory Christmas bonus. They get 8 percent profitsharing. I can go on and on. In fact, if you get to the spirit of the thing, the Mexican labor law was developed out of the Mexican revolution of 1917 and carries with it a very strong social bias. Some might say too much of a social bias in terms of the regulation and bureaucracy that develops. I would say that.

But, until it became politically useful or politically correct to say that Mexican labor law is antiworker, there has not been a scholar who has said so. Go back and look at the pre-1990 articles in law reviews and they will say pro labor, pro worker right down the line.

There is a second line of attack. Mexican laws may be great but they fail to enforce the law. Well, again, that is passing strange. I was Solicitor of Labor for the Bush administration for 2 years, and all I heard from the AFL-CIO was that the laws were not enforced in the United States. And indeed there are many labor scholars who argue that it is endemic in the United States that there are structural inadequacies in enforcement. So I don't know why we would want to say that the United States laws are great and the Mexican laws have enforcement problems.

The fact is that Mexico is a developing country. You have to look at different sectors. If you look at the informal sector, the peddler, the guy who is selling on the street, I am sure you can write him a lot of tickets, I am sure you could do that on 5th Avenue or La-Salle Street, if you check the OSHA regulations or the child labor law regulations.

But if you look at the modern factories built in Mexico, particularly those built by multinational corporations and the United States has looked at this and the Secretary of Labor has reported to Congress that the worker safety is state of the art. Put simply, good or bad, they use the same type of plant that they would use in Oklahoma or Illinois. I don't want to say it is a cookie cutter,

but they don't say, we are in Mexico, now we can remove this safety mechanism that we have.

Now, Mexico in some respects has stronger OSHA regulations than we do. Take the OSHA PEL standards, the permissible exposure standard limits which was the major generic effort to prevent toxicity, the eleventh circuit threw it out last year. Mexico follows the OSHA regulations that were thrown out by the eleventh circuit. Per industry, there are more OSHA inspectors in Mexico than in the United States. I think it is hard to say that Mexico does not enforce its laws.

Let me speak for one moment about the GSP point which was raised. And it is true that the GSP—the general system of preferences—says that you have to pass international worker rights standards. To that extent, the United States is saying you have got to pass a minimum threshold before we let you get these GSP tariff benefits.

We don't say that with Mexico. We say with Mexico we want to make sure that you are committing in the agreement to enforce your own laws. You have to enforce your own laws. We are not coming in and saying, hey, are your laws at this level of equality? To get past the GSP, you don't have to get an A. You just have to avoid an F.

And the kinds of countries that have been thrown out for failing international workers rights have been Assad's Syria, Bokassa's Central African Republic, and Ortega's Nicaragua. Nobody has said that Mexico, which has a lot of problems, is in that category. So I submit that the whole GSP argument is, in the main, a canard. The fact is that whether Mexico's labor laws are A, B, or C, they are not F. And it is F that you have got to get to fail the GSP workers rights test.

I think I have overstepped my time. Let me stop now, I will be happy to answer any questions that you have.

[The prepared statement of Mr. Breger follows:]

THE NAFTA "SIDE AGREEMENTS", GSP  
AND THE ENFORCEMENT OF WORKERS RIGHTS

STATEMENT OF MARSHALL J. BREGER  
SENIOR FELLOW  
THE HERITAGE FOUNDATION

BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS  
SUBCOMMITTEE ON EMPLOYMENT, HOUSING AND AVIATION

SEPTEMBER 9, 1993

Mr. Chairman:

I am very pleased to join you this afternoon to discuss aspects of the Labor "side agreement" to NAFTA. I understand that you are interested, as well, in the "enforcement" mechanisms for implementing a signatory country's own labor laws (I presume your specific interest here is Mexico) and I will be pleased to discuss that as well.

I would ask that my written remarks and accompanying material be accepted for the record, as if read.

#### Introduction

As you know the Clinton Administration has not yet released the text of the supplemental agreement on labor cooperation. We have, however, been made aware of the grand design - A North American Commission on Labor Cooperation consisting of a Ministerial Council, an International Coordinating Secretariat and three National Administration Offices.

The Commission is clearly a structure conjured up by a committee with all the usual uncertainties accompanying that style of creation. Its many layers appear cumbersome, each unit designed for distinct and hopefully not contradictory purposes. We lack any authoritative knowledge as to how this bureaucratic beast is, so to speak, "to fly". Indeed, we have only a glimpse as to how it is intended, that its structural elements - the Secretariat and the National Administrative Offices, as example, are to interact, what its investigatory procedures will be and indeed, where the limits of its authority will lie.

Some outer markers have been laid down and these, I believe, if adhered to, bode well for the Labor Commission and for the entire NAFTA process.

- Under the side agreement the basic obligation of each state is to ensure the effective enforcement of its own labor law not to comment on or critique the laws of other signatory states. This focus on how well countries meet the obligations they set themselves is a positive approach. It gets us away from carping over whose laws are better and over which legal system, Mexico's, the United States' or Canada's, reflects greater care and compassion for workers.

- The investigative procedure of the Labor Commission will apparently be triggered when a signatory party requests cooperative consultations at the Ministerial level. The Ministers may then create an ad hoc Evaluation Committee of Experts (ECE) who will issue a report with recommendations. This is in apparent contrast to the procedures for the NAFTA Environmental Commission where the Secretariat (not the

Ministers) may trigger the reporting process after submission of a complaint by a private citizen or organization. This too is a positive approach as it keeps the Commission from being dragged into individual labor disputes and problems where it is not equipped to render judgements. Further the "side agreement" gives responsibility for the handling of labor complaints to a national entity which will work with other national entities. Thus under the labor side agreement, the public in the United States will generally communicate its concerns about Mexican and Canadian enforcement to the U.S. NAO which will examine and assess the matter.

- An arbitral panel will only be convened by the Ministerial Council if consultations based on the ECE report fail to resolve allegations that a country has a "pattern or practice" of failing to effectively enforce its own labor laws and standards. Should the arbitral panel make such a finding the parties then have sixty days to agree on a mutually satisfactory action plan to remedy the non-enforcement. Only if there is no such agreement will the arbitral panel reconvene to consider the imposition of monetary enforcement assessments.

The process then focuses on achieving mutual consensus and resolution. It allows for sanctions only as a last resort and after an extensive process where the parties can develop alternative remedies. In plain talk, sanctions will likely only occur if a country refuses to engage with the Council in any way whatsoever.

- Most important, the side agreement seems to recognize that the Labor Commission as its greatest value when promoting the exchange of data and information, providing technical cooperation in for example, the training of inspectors and spurring mutual collaboration in dealing with workplace issues in the next century. It is here, rather than in any formal complaint process that the Commission can make its greatest contribution.

Many NAFTA opponents have become exercised on the extent to which the actual side agreement differs from an earlier U.S. negotiating position "leaked" in the May 21 issue of Inside U.S. Trade. That draft contained one main difference, as regards structure, from the August version. In the final draft, the notion of an independent Secretariat able to initiate investigations and prepare reports sua sponte has been transformed into a Secretariat that acts as a facilitator and support service to the Council and the National Committees. And this is as it should be. There is no need for an unaccountable autonomous supranational bureaucracy acting without guidance by the Council. That is not and should not be the role of staff which is, after all, exactly the role the Secretariat performs.

1) Mexican Law Labor Law And The Right To Organize

I do not purport to be an expert on Mexican labor law. What must be underscored however, is that Mexican industrial relations are based on a different approach than the United States. A different balance is struck in Mexican labor law between the rights of management and of labor. A higher priority is placed on consultation and conciliation than in the enforcement at law of what are often "barren rights".

It is not surprising then that in Mexico more than 36% of the work force is unionized as compared to less than 13% in the United States. The closed or union shop is allowed (there is no "right to work" laws in Mexico) and at the conclusion of a legal strike it is a practice to provide 50% back-pay. Good or bad Mexico is not anti-union territory.

Two further points. In Mexico unions must be registered with the government. Once registered it is presumed that they represent a majority of employees in a company (in a company union) or in a industry (in an industry union). The burden of proving otherwise is on the employer and it is not an easy matter to do so.

Second, in Mexico, the right to strike is defended by the Constitution and is further defined and delineated in the Federal Labor Law. To be legal, a strike must have a lawful objective, such as seeking to achieve a balance between the workers and the employer's rights, modifying a labor agreement or participating in a secondary strike.

In theory, the right to strike is more broadly protected in Mexico than in the U.S. For example, once a strike is recognized in Mexico, a private employer cannot continue operations during the strike. The issue of "striker replacements", temporary or permanent, simply does not come up. However, a significant difference from U.S. law provides something of a counterweight: a labor organization must give advance notice of its intention to strike by filing a petition with the appropriate conciliation and arbitration board.

This imposes a mandatory negotiation attempting to reconcile the difference between parties, serving a purpose only somewhat analogous to voluntary mediation under the auspices of the Federal Mediation and Conciliation Service in the U.S. This heightened focus on cooperation and consultation may reduce the incidence of strikes. However, this process of individualized negotiations, rather than application of general rules of conduct, greatly increases government involvement in industrial relations.

This is not to suggest that Mexico is a labor paradise. Far from it. There is some evidence that independent, often aggressive unions have trouble getting registered and becoming official. Without official status they cannot call a legal strike. Legal recourse, however, is available to appeal the

denial of a registration petition if it is improperly denied and Mexican courts have, in fact, acted on such appeals.

Further, there is a structural tension between the presidentially orchestrated business - labor agreement or el pacto that tries to control inflation and wages and prices. Sometimes where there have been productivity gains like in the 1993 Hermosillo Ford strike, the government will not interfere. Elsewhere, where the government believes national interests are at stake, like in the 1992 Volkswagen strike, it can determine a strike to be political, not economic, effectively declaring it illegal.

Finally, there are undoubtedly in Mexico as in other countries, employers who seek union avoidance and employees who do not choose to join a union. Thus in Mexico, as in this country, there are organizing efforts and counter efforts. Efforts at union avoidance should not and do not vitiate Mexico's labor laws which as I have pointed out are almost universally viewed by scholars as being "pro-labor".

Many NAFTA skeptics express concern that issues related to collective bargaining and the right to organize are not subject to the dispute resolution or arbitral panels of the Labor Commission. Industrial relations disputes, however, tend to be fact-specific. Only in very limited situations would it make sense to have super-national reviews of individual labor disputes. Certainly, we in the U.S. would be uncomfortable with recourse to the Commission to "renegotiate" the result of a strike or organizing drive. In our own country, this would mean re-examination by the Labor Commission of NLRB and federal and state court decision. Does the UAW, as example, really want its upcoming negotiations with G.M. to be subject to Labor Commission review. It won't work here. We should not expect it to work in Mexico.

## 2) Does Mexico Adequately Enforce Its Labor Laws?

In some sense this is an unfair question. It is certainly a subjective question. Throughout the Reagan-Bush years, and I suspect even earlier, the AFL-CIO argued (incorrectly I might add) that the Republican administration did not adequately enforce the labor laws. Indeed many commentators sympathetic to the union movement have argued that the labor laws themselves are radically flawed and are unfair to labor. Certainly if one attended to union statements regarding proposed legislation on "striker replacement" or OSHA reform one would certainly think that to be the case. All of a sudden we hear no complaints about U.S. law or U.S. enforcement and a farrago of criticism of Mexican law and Mexican enforcement. A cynic might wonder if there were a reason unconnected to the merits of the law of either jurisdiction.

The AFL-CIO's call for cross-border labor enforcement is

based on a belief in the existence of large-scale abuses in Mexico. The fact is that Mexican labor standards are little different, and in some cases even more "pro-worker" than our own - as in worker safety and health (what the Mexicans refer to as "hygiene"). Indeed, after a recent 11<sup>th</sup> Circuit Court decision that vacated the Occupational Safety and Health Administration's most recent (and higher) exposure limits for air contaminants (the PELS decision), Mexican hygiene standards may in some instances be tougher than those in the U.S.

Still, it is argued that, while Mexico may endorse high standards, it fails to adequately enforce them. This charge may have some truth for traditional manufacturing plants, small business or the informal sector. It may also have some validity as regards to the newly promulgated hazardous communication (HAZCOM) rules, or new standards related to the handling of toxic chemicals, both of which have raised implementations problems for U.S. business as well. In the maquiladora industries however, as the Secretary of Labor has reported to Congress, the safety standards are "state of the art" and are comparable to the U.S.

As regards enforcement of labor standards, actually, Mexico has 800 labor inspectors for 600,000 covered workplaces (one for every 750). Admittedly these inspectors enforce all manner of labor standards not simply OSHA - type issues. Still, by comparison, the U.S. has 2,467 federal and state OSHA inspectors for 6.5 million workplaces (one for every 2,635). And Mexico, unlike the U.S., mandates labor management workplace committees, to which workers can make health and safety complaints. These committees must meet at least monthly, and minutes of each meeting must be signed by all attending and filed with the labor safety authorities.

Further, Mexican industry is required to gather and record data on workplace related injury and illness. Each company has an "experience rating" for their "social security" payroll deduction that is adjusted yearly based on their injury rates. Thus there is a fiscal incentive for management to ensure worker health and safety.

Certainly Mexico could benefit from technical assistance in applying and enforcing its labor standards. This is particular with standards that deal with evolving technologies. Last year Mexican technicians received training in OSHA's industrial hygiene testing laboratory in Salt Lake City. This kind of technical assistance does not make headlines but it makes a real contribution to worker safety. The Labor Commission can provide significant leadership in this area.

### 3) Worker Rights, the GSP and NAFTA

It has been suggested that the worker rights protections afforded Mexican workers in the context of the Generalized System of Preferences (GSP) are significantly greater

than those afforded workers under the recently negotiated Side Agreements. Presumably this suggestion is proffered as an argument to oppose Congressional passage of the NAFTA. If so it is at best a gross misreading of workers rights in Mexico and at worst a canard.

A number of U.S. statutes protect "internationally recognized workers rights" among them the enabling legislation for the Overseas Private Investment Corporations (OPIC), the Caribbean Basin Initiative (CBI), and the Generalized System of Preferences (GSP). Under the GSP legislation if a country is found to be importing goods that violate any of five internationally recognized workers rights then goods from that country may lose tariff preferences accorded by the GSP.

Such a finding requires a complex set of procedures which affords the affected parties an opportunity to present all sides of the issue of labor law and practice.

The five internationally recognized workers rights are: (1) the right of association; (2) the right to organize and bargain collectively; (3) prohibition on the use of forced or compulsory labor; (4) minimum age for the employment of children; and (5) acceptable conditions of work regarding minimum wages, hours of work, and occupational safety and health.

Mexico clearly meets all of these standards and until the NAFTA debate began no one ever suggested otherwise. In 1991, after the NAFTA wars began, a buckshot petition was filed and dismissed by the relevant GSP Interagency Subcommittee. A second petition was filed this year and is still pending before USTR. The timing, I believe, is no accident.

Remember you don't need to get an A to keep your GSP preference. The key is not to get an F. Among the countries that in the past have failed the workers rights test is Assad's Syria, Ceausescu's Romania, Ortega's Nicaragua, and Bokassa's Central African Republic. However shrill the criticism of Mexico even its harshest critics have not hitherto joined it with such "worthies"

And the reasons are obvious. Article 123 of the Mexican Constitution guarantees the right of association and the right to strike. Mexico is a signatory-as, I might add is the United States - to ILO Convention 105 that prohibits forced labor and there have been no recent complaints to the ILO that Mexico has violated that Convention. Mexico has strict child labor laws with a minimum working age of 14 and special restrictions for work done by children under 16. There is no suggestion that these laws are not enforced in large and medium-sized manufacturing and commercial establishments. There is a minimum wage and overtime laws and as will be seen below there are extensive worker safety laws. Indeed Mexico has ratified 67 ILO conventions related to worker health and safety-far more than the

U.S.

Further there are many aspects of Mexican labor law that are decidedly more "pro-worker" than United States law or practice. As example, workers must receive severance pay when layoffs are due to a permanent reduction in the workforce or to plant closures. Compensation must be provided for dismissal without cause. 8% of all taxable profits must be distributed to workers.

Thus, while it is true that the NAFTA regime will replace the GSP protections of internationally recognized workers rights, the matter has no relevance to Mexico as Mexico more than meets that minimum standard.

4) Should Mexican Law be Changed to enlarge access to courts (e.g. make litigation easier)?

You have also asked what changes are necessary in Mexican law to provide their citizens with "access to fair, transparent and equitable court proceedings for the redress of harms and for enforcement of their country's environmental and labor laws".

This concern, expressed in the briefing papers proffered by USTR announcing the labor side agreement, is reminiscent of earlier demands by NAFTA-skeptics that Mexico give U.S. public interest groups standing to sue in Mexican courts on alleged Mexican failures to enforce their labor and environmental laws. It is drawn, I suspect, from the somewhat more modest formulation of that demand - that Mexico import U.S. principles of judicial review and administrative procedure into Mexican law.

Now I am a firm believer in the merit of the Administrative Procedure Act (APA) having taught it at law school and practiced under it in both the public and private sectors. Nonetheless, I consider the notion that Mexican law must adopt American ways to reflect the characteristics of a "rule of law" state to be a mischievous species of cultural imperialism. Indeed I will go further. While there is much in American culture and values that I would gladly urge on the world, I find it hard to imagine that anyone other than a denizen of K Street or Dupont Circle would wish our litigious society on any but America's worst enemies. Mexico's emphasis on conciliation and mediation in its labor law is one from which we can learn much not vice versa. And as regards administrative law, while I have no doubt notice and comment procedures similar to those used in our own APA would do much to increase public participation in rulemaking and strengthen the transparency of decision making in Mexico as in many civil law countries, I think it equally clear that much of the delay that litigation has imposed on our own rulemaking process is not a good to be transported abroad.

I would further note that Mexico possesses a form of action - the emparo, by which a citizen can sue a government agency for

alleged violation of the Constitution. Mexico's rules of "standing" are far stricter than our own. Nevertheless, this free-ranging (by U.S. terms certainly) use of what I would functionally call injunctive relief provides, as a doctrinal matter, significant check on abusive government powers.

If the Congress is seriously concerned in developing an ongoing dialogue with Mexico on creative solutions to administrative law problems inherent in the Administrative State I would urge it to direct- and to fund - the Administrative Conference of the United States (ACUS) - the most expert government agency on these matters - to undertake a series of studies and dialogues with its Mexican counterparts to suggest improvements in the administrative aspects of agency rulemaking and of decision making within the Federal Labor Law. This kind of comparative discussion and dialogue can over time produce significant results.

Similar dialogue should occur between both countries - and, of course, Canada - as regards their respective labor laws. In the Fall of 1992 the Department of Labor and the Mexican Ministry of Labor co-sponsored a conference in Mexico City on U.S and Mexican labor laws. Around twenty American speakers, mostly academics, met with around two hundred Mexican labor lawyers and union officials to talk about how each country deals with labor issues. The most interesting thing about the conference was the extraordinary ignorance working lawyers and government officials had about their opposites' laws and legal system. On both sides, myths and mis-impressions were rife. Unfortunately this effort does not seem to have been built on. If we are serious in talking constructively about the Mexican system of labor law it should be replicated. Again and again. For there is no point in cavalierly demanding that the Mexican legal system be made fairer-whatever that locution may mean-unless American legislators and lawyers take the time to talk about and understand the Mexican system in context and appreciate its virtues as well as any drawbacks it may indeed have.

I would further suggest however that the talk of making Mexican labor fairer and increasing access for citizen enforcement misses the fundamental point. Whatever its virtues, Mexican labor law today is so regulated that it ineluctably invites evasion not only by employers but by government and unions as well. To be blunt what Mexico needs in the arena of labor law is not more law but less.

One of the main problems with workers rights in Mexico is that there are simply too many. In other words, the employment context is overregulated. A superfluity of "protections" has created a predictable result: Everyone - worker, union, employer, government - ignores some of the laws sometimes, all in different specific situations, but all to circumvent the deadly hand of overregulation.

For example, a union cuts illegal deals with employees to avoid work delays inherent in Mexican strike laws; employers, faced with an unmeetable standard to prove "just cause", pay severance to rid of thieving employees; employees, aware of the material benefits of being in certain labor classifications, kick back salary to union officials; government officials, frustrated by corruption and bureaucracy, turn a blind eye. As can be expected, participants in the Mexican economy often resort to extralegal solutions in response to burdens of overregulation, fueling the underground economy (which some have estimated to be the highest in Latin America).

It is not uncommon, for example for an employer to pay compensation when he fires a worker for cause simply because the process of proving cause is so cumbersome. Similarly the government maintains a considerable control over the collective bargaining process to promote labor peace and advance the cause of labor-management cooperation. In but one example in some circumstances the government can elevate a company contract to a mandatory industry-wide contract or contrato-ley depending on the governments view of the "advisability, opportuness, and benefits for the industry concerned."

As Mexico moves further in its industrial development I am certain that many of the aspects of overregulation evident in the Mexican labor law will be addressed and the extensive role of the state in the labor relations process reassessed in light of experience in the U.S., Canada, and indeed other countries of the hemisphere who may accede to NAFTA in the future. Such developments would bode well for workers and management in Mexico and once NAFTA is approved, in America as well.

#### Conclusion

NAFTA offers a major turning point for the North American Continent. It will create the largest trading block in the world - a \$6.5 trillion open market. It will open the \$320 billion Mexican market to the U.S. and Canada. It will increase American prosperity and yes, it will grow American JOBS.

E.J. Hobsbawm, the great labor historian, has written of the 19<sup>th</sup> Century "Luddites" who sought to stop the industrial revolution in England by destroying new machinery as it was bought into the factory. The opposition to NAFTA reflects similar fears and unfortunately offers the same lack of promise in addressing the future global workplace.

The process of opening up markets to free trade will inevitably creates dislocation for some workers and some industries. Many of these problems will be easily remediable; others will involve individual pain. Instead of fighting NAFTA we would all be better off discussing how we can ease the pain of transition by offering real retraining programs to workers early on in the transition process so as to make a difference to their

individual and collective lives. Mr. Chairman, we must not allow our uncertainties to cloud our vision, our fear of risk to constrict the potential reward as our Nation takes up the challenges inherent in the North American marketplace.

I would be happy to answer any questions you may have.

Thank you very much.

# Nafta Critics Have It All Wrong on Mexican Labor Law

It truth is the first casualty of politics, the North American Free Trade Agreement (Nafta) was severely wounded during the recent election campaign. The specter of lax environmental standards and unenforced worker labor legislation in Mexico was raised as an excuse for repudiating the carefully crafted 2,000-page treaty. Its terms should be broadened, argued critics of Mexican domestic policy, to include a wholesale intrusion into Mexico's legislative standards.

In the relative tranquility of the transition, some clarity regarding Nafta has emerged. It now seems that Bill Clinton seeks neither to reopen the treaty nor to dictate domestic policy terms to the Mexicans. Nevertheless, those in the U.S. who opposed the passage of Nafta continue to harp

Crafted in an age of social upheaval, the Mexican Constitution is written with abstract guiding principles, such as improving the living and working conditions of Mexican workers, and honoring workers' inherent liberty and dignity. In addition to establishing rights familiar to us, such as freedom of association, the right to strike, workplace health and safety, minimum wage, and maximum hours of work, the Mexican Constitution also guarantees annual leave, profit sharing, employment security, worker training and many other benefits and protections. These benefits are, in turn, expanded in the so-called Federal Labor Law, which is enforced throughout Mexico by federal and state boards of conciliation and arbitration.

One of the main problems with workers' rights laws in Mexico is that there are simply too many. In other words, the employment context is overregulated. A superficial view of "protection" has created a predictable result: Everyone — worker, union, employer, government — ignores some of the laws sometimes, all in different specific situations, but all to circumvent the dead hand of overregulation.

For example, a union cuts "illegal" deals with employers to avoid work delays inherent in Mexican strike laws; employers, faced with an unmeetable standard to prove "just cause," pay severance to be rid of thieving employees; employees, aware of the material benefits of being in certain labor classifications, kick back salary to union officials; government officials, frustrated by corruption and bureaucracy, turn a blind eye. As can be expected, participants in the Mexican economy often resort to extralegal solutions in response to the burdens of overregulation, fueling the underground economy (soon to be 25% of the work force).

At the core of most labor laws is the workers' right to strike. In Mexico, this right is defended by the constitution and is

further defined and delineated in the Federal Labor Law. To be legal, a strike must have a lawful objective, such as seeking to achieve a balance between the workers' and the employer's rights, modifying a labor agreement or participating in a secondary strike.

In theory, the right to strike is more broadly protected in Mexico than in the U.S. For example, once a strike is recognized in Mexico, a private employer cannot simply terminate operations during the strike. The issue of "striker replacements," temporary or permanent, simply does not come up. However, a significant difference from U.S. law provides something of a counterweight: A labor organization must give advance notice of its intention to strike by

## The Americas

By Marshall J. Bregger

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filling a petition with the appropriate conciliation and arbitration board.

This imposes a mandatory negotiation to reconcile the differences between the parties, serving a purpose only somewhat analogous to voluntary mediation under the auspices of the Federal Mediation and Conciliation Service in the U.S. This heightened focus on cooperation and consultation may reduce the incidence of strikes through conciliation. However, this process of "individual" negotiations, rather than the application of general rules of conduct, greatly increases government interference in labor relations.

The Mexican system thus abets the forces of stability but does so at a material cost. Lost is a more vigorous, independent labor marketplace, in which independent

unions freely negotiate with employers and enforce their contracts with strikes undertaken without waiting for government approval. Employers and employees are often bound by restrictions that endanger the life of the former. But Mexico's stellar economic team is much more aware of this than any outside observer. President Carlos Salinas de Gortari and Finance Minister Pedro Aspe are hard at work trying to find ways to purge the inefficiencies from Mexican labor law.

The point is that Mexico has a comprehensive labor law and is applying it as its own economic, social and political realities permit. There are substantial differences in the ways in which the U.S. and Mexico protect fundamental workers' rights. Indeed, based on my observations and conversations with Mexican government officials and businessmen, I would argue that Mexico goes further in its embrace of a "social charter" than market forces alone would dictate and than economic modernization will lead to a reevaluation of the Federal Labor Law toward greater employer flexibility.

Whether this prediction is true or not, it cannot be denied that Mexico's dedication to workers' rights is both real and founded on deeply felt fundamental principles firmly rooted in its history, its Constitution and its Federal Labor Law. Whatever position one takes on the ultimate merits of Nafta, the wholesale critique of Mexican labor laws is surely a misplaced political canard unless that critique recognizes that what we perceive as "failings" are often creative responses to a system choked by laws and regulations that serve often to undermine the very goals they were designed to reach.

Mr. Bregger is solicitor, U.S. Department of Labor.

## How to Save a Trade Agreement

By MARSHALL J. BREGER

When it comes to the North American Free Trade Agreement, there are two Mickey Kants. The first is the "nice" Mickey Kantor who, as President Clinton's trade representative, promises Congress that the administration will not demand trade sanctions in the environmental and labor negotiations with Mexico that are going on right now. The second is the "tough" Mickey Kantor, who demands that his troops put "teeth" into any agreements resulting from these negotiations. The fate of Nafta will depend on where the "real" Mickey Kantor stands on free trade.

Take labor issues. So-called labor rights advocates are calling for the use of trade sanctions for labor violations in Mexico. This would allow Nafta tribunals to penalize companies for violations of cross-border wage and labor laws. It might even require American courts to decide whether Mexico and Canada are following their own labor laws.

### Swinging Its Ax Both Ways

Mr. Kantor rejected such pleas in recent congressional hearings, and with good reason. Unlike domestic content rules, labor standards cannot be mathematically defined or easily enforced. Last year alone, the Labor Department found hundreds of American companies in violation of such statutes as the Fair Labor Standards Act, the Occupational Safety and Health Act and the Employee Retirement Income Security Act. Remember, a North American labor tribunal can swing its ax both ways.

It would be only a matter of time before Mexican courts began penalizing imports from U.S. companies, whether their "crimes" were merely record-keeping violations or something more serious. The question of whether a particular violation rose to a level worthy of trade sanctions would itself keep litigators in clover on both sides of the border.

Anti-Nafta forces are now pushing a related idea: that Mexico give Mexican citizens, labor groups and industry an

American-style legal system, including a more open system of administrative rule-making and increased use of judicial review. In hearings last month, the "tough" Mickey Kantor seemed to agree.

Here he betrays his roots. For only a lawyer-lobbyist could feel righteous about exporting today's American legal system abroad. Even if Mexican law allows too little public participation in its administrative process, or too little judicial review, imposing our system on Mexico—one fraught with proceduralism and litigiousness—will benefit K Street law firms with

giene"). Indeed, after a recent 11th Circuit Court decision that vacated the Occupational Safety and Health Administration's most recent (and higher) exposure limits for air contaminants, Mexican hygiene standards may in some instances be tougher than those in the U.S.

Still, the anti-Nafta crowd claims that, while Mexico may endorse high standards, it fails to enforce them. As a "developing" country Mexico may not be completely up to speed on safety requirements of new production processes. The same is true with issues related to the

*As a developing country, Mexico cannot replicate every jot and tittle of our employment and labor law. Such an idea is put forward merely to scuttle Nafta.*

the resources to open Mexico City branches far more than American or Mexican workers.

If Mr. Kantor really wants a successful Nafta accord, he should take the following practical steps:

- Ensure that a "trinational commission" does not become an international enforcement bureaucracy.

The Clinton administration has urged creation of a Trinational Commission on Labor Standards with "independent expert staffs and the authority to review complaints from citizens and nongovernmental organizations." Already some commission advocates envision a secretariat that would act independent of the labor ministers of the three countries. Such a bureaucracy would undercut national sovereignty, imposing labor-law "justice" as it saw fit.

At best, the mandate of any such commission should be limited. It should offer technical assistance in worker-safety issues, and provide a clearinghouse for ways to improve productivity and labor-management cooperation. At most, it should facilitate an appeal to the court of public opinion, not a court of law.

- Provide assistance in training Mexican health and worker-safety inspectors.

The AFL-CIO's call for cross-border labor enforcement is based on a belief in the existence of large-scale labor abuses in Mexico. The fact is that Mexican labor standards are little different, and in some cases even more "pro-worker," than our own—as in worker safety and health (what the Mexicans refer to as "hy-

giene"). Still, Mexico has 800 labor inspectors for 600,000 covered workplaces (one for every 750). By comparison, the U.S. has 2,467 federal and state OSHA inspectors for 6.5 million workplaces (one for every 2,635). And Mexico, unlike the U.S., mandates labor-management workplace committees, to which workers can make health and safety complaints.

Mexico does need our technical assistance in applying and enforcing its labor standards. But there is no reason to reinvent the wheel. The Environmental Protection Agency is already involved in cross-border projects with Mexican agencies. Such projects offer a model for solving discrete labor relations problems. For example, the U.S. government could provide support for an inspectors' training facility in Mexico similar to our "OSHA University" in Des Plaines, Ill. Last year, Mexican technicians received training in OSHA's industrial hygiene testing laboratory in Salt Lake City. This kind of technical assistance does not make headlines, but it makes a real contribution to worker safety.

- Reject the demand for uniform continental standards.

In the trench warfare against Nafta, the AFL-CIO has referred to the need for a "social charter" similar to those being contemplated by the European Community. This idea that Nafta should promote uniform continental labor standards between Canada, Mexico and the U.S. is fanciful at best. As a developing country, Mexico cannot (and should not) replicate



Mickey Kantor

every jot and tittle of our employment and labor law. The very notion suggests that the idea is put forward less in good faith than as a ploy to scuttle Nafta.

It is unreasonable to expect parity or even harmony among Mexico, the U.S. and Canada in, for example, wage and hour laws. Mexico tracks the U.S. not only in safety and hygiene but in overtime laws (they have a 48-hour week, but require double-time, not time-and-a-half, for overtime). But there's no reason, beyond politics, to expect Mexican law to parallel our own down the line.

There is the bigger issue here of cultural imperialism. While many Mexican labor standards are different from ours, we cannot assume they are appreciably worse.

Worker safety is one example. The Mexicans, when they enforce worker safety, do so largely through performance standards—telling industry what the maximum risk levels are, and letting industry find the best way to comply. In contrast, OSHA too often gets caught up in telling business, in excruciating detail, exactly how to reach a mandated goal, with so-called command-and-control regulations. Even liberal economists agree that performance standards are often superior to command-and-control mandates. Will the continental-standards crowd command Mexico to adopt American methods that are being criticized here at home?

#### Devil in the Details

If Nafta is to be implemented by 1994 (as Mr. Clinton has promised), the supplemental agreements must be finished by early June so that the "fast track" debate in Congress may begin. Given that short time frame, Nafta will only succeed if a "practical" Mickey Kantor emerges.

Reports from last week's session in Mexico City suggest that Mr. Kantor is resisting efforts to vest the "trinational commission" with significant enforcement powers. That is all to the good. The devil, however, is in the details. The Clinton administration must not load up the supplemental agreement with so many conditions that the Canadians will balk and the free-traders in Congress lose heart. It's now time for the "real" Mickey Kantor to show his hand.

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*Mr. Breger is a senior fellow at the Heritage Foundation. Wesley R. Smith, co-director of the Mexico Project at Heritage, assisted with this article.*

## NAFTA

### Trade on Trial: NAFTA in the Dock

by Marshall J. Breger

Agreeing with the complaint of three "public interest" groups — Ralph Nader's Public Citizen, the Sierra Club, and the Friends of the Earth — on June 30th, Judge Charles Richey of the United States District Court for the District of Columbia found in *Public Citizen v. Office of the United States Trade Representative*, that the United States Trade Representative (USTR) had failed to comply with the National Environmental Policy Act (NEPA) by not preparing an environmental impact statement on the North American Free Trade Agreement (NAFTA). He then ordered the Clinton Administration to write such a statement as soon as possible.

An environmental impact statement, or EIS, is an evaluation of the environmental impact of a U.S. government agency action or legislative proposal. The agency must canvass affected state and local governments, prepare an assessment of environmental vulnerabilities, and propose alternate options. The EIS was mandated to ensure that administrative agencies take environmental factors into account in their decision-making processes.

By statute, the EIS requirement applies in terms not only to agency decisions such as rule-making but to such actions as where to place a dam. Indeed, it goes so far as to apply to "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment."

Congress, however, has always known how to get information it wants from the executive branch. Thus, students of environmental law have never understood the point of requiring an EIS for legislative proposals. Judge Richey seemingly wants to instruct them.

#### The Posture of NAFTA

President George Bush signed NAFTA on December 17, 1992. Bill Clinton had stated during the presiden-

tial campaign that he would not send NAFTA implementing legislation to Congress unless he successfully negotiated side agreements on labor and environmental issues with Mexico and Canada. Among his requirements were the creation of two tri-national commissions, one on labor and one on environmental issues. The Clinton Administration is presently negotiating these sides agreements and hopes to reach a successful resolution this summer in order to simultaneously submit implementing legislation for both NAFTA and the side agreements to Congress this fall. (Editor's note: As MTLR goes to press, negotiators report progress on the side agreements and expect to complete their work shortly.)

#### Judge Richey's Opinion

Richey's opinion is vulnerable for a number of reasons. First, it remains doubtful whether the public interest plaintiffs have standing to sue. Do they have a sufficient interest in the controversy to justify their bringing the case? Can they show some concrete injury-in-fact? Under recent Supreme Court precedents, Judge Richey's grant of standing, based on the conjecture that NAFTA will constrain U.S. environmental

regulation in a manner that increases environmental degradation, is problematic at best. Similarly, Public Citizen's assertion that organization members living in border states will be affected adversely by the trade agreement is no

more than what the Supreme Court in *U.S. v. S.C.R.A.P.* called, an "academic exercise in the conceivable." Ultimately, plaintiffs are reduced to relying on an unusual form of injury. They argue that the failure of the government to prepare an EIS deprives them of needed information about the environmental effects of NAFTA.

Even if the plaintiffs do have standing to bring the case to court, it is unlikely that the environmental impact requirement for legislative proposals is judicially enforceable. The NEPA does not create an independent private right of action. If someone wants to sue for a violation of NEPA — such as a failure to

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## NAFTA

prepare an EIS — it must be done through the Administrative Procedure Act (APA), which permits judicial review of "final agency action" only. Judge Richey tried to get around this hurdle by finding that final agency action was taken by the U.S. Trade Representative. However, it is the President, not the USTR, who will submit NAFTA implementing legislation to Congress. It is settled law that the President is not an agency for purposes of the APA.

Thus, as the Supreme Court underscored in the 1992 census case, *Massachusetts v. Franklin*, where it is the President, not an agency, who specifically must take final action under a statute, APA review is not available. The Administration's decision not to draft an EIS, therefore, is simply not a reviewable agency action.

Far more important, however, the Richey decision raises significant constitutional issues. It places constitutionally problematic strictures on the President's power to propose legislation. And more broadly, it intrudes the courts in the President's authority to effectively enter into international agreements.

Indeed it is hard to imagine that Congress, in passing the NEPA, actually contemplated that the President must prepare an environmental impact statement for international agreements and treaties negotiated with foreign countries. While it may be unsurprising that the State Department, for many years, has prepared EIS's for numerous international treaties and agreements, these precedents in no way vitiate the constitutional issues presented since the Department's past voluntary actions in no way impairs the scope of the President's executive authority.

#### Legal Effect

The immediate legal effect of the Richey decision on NAFTA is unclear. Judge Richey did not require the USTR to stop negotiating the side agreements with Mexico and Canada until an EIS is completed. Nor did he forbid the Clinton Administration from submitting NAFTA to Congress without an EIS, stating only that the USTR "shall propose such an Environmental Impact Statement forthwith."

Under traditional NEPA jurisprudence, an agency action based on a defective EIS is open to judicial review. However, where a legislative EIS is required, as in the NAFTA implementing legislation, no court can prevent Congress from voting on that legislation because the court believes that an environmental impact statement is defective. In that sense, one could argue that this litigation was brought less to accomplish any specific legal purpose than to wreak political havoc with NAFTA.

#### Political Effects

The political effect of the district court decision is potentially devastating to the fate of NAFTA. It provides succor to those who oppose NAFTA for any and all reasons and raises the price the Administration will have to pay in the NAFTA side agreements to secure "Green" support. It provides an excuse for those who want to delay NAFTA to demand that Congress wait upon the judicial branch. And indeed it may yet lead those within the Clinton Administration who are ambiguous about NAFTA to put the whole thing off until next year. Such a delay would likely doom NAFTA.

#### What Next?

The Clinton Administration has sought an expedited review of Judge Richey's decision. Already the parties have agreed to a compressed briefing schedule with final briefs due on August 10. The Court of Appeals for the District of Columbia Circuit has set oral arguments for August 24 before a panel consisting of Chief Judge Abner Mikva, former Chief Judge Patricia Wald, and Judge Ray Randolph. A decision is therefore possible sometime in September, and this would still allow NAFTA to be voted on during the fall.

The pendency of the Court decision ought not preclude the Administration from moving quickly to conclude its negotiations over the NAFTA side agreements. The Court case has absolutely no impact on the side agreements. Indeed, concluding the side agreements should clarify significantly the environmental impact of NAFTA and how the U.S. is seeking to protect the environment of the U.S. and Mexico.

In the unlikely event that the Court of Appeals affirms Judge Richey's decision, the Administration should immediately seek expedited review in the Supreme Court. In light of NAFTA's importance, the Administration also should be ready to submit an EIS forthwith if the Supreme Court so requires. While some have suggested that preparation of an EIS would take six months to a year, this need not be the case. The Administration has already done extensive work on the environmental impact of NAFTA. It has prepared a 250-page *Review of U.S.-Mexico Environmental Issues* assessing its various environmental ramifications. Thus, much of the scoping of issues has already been done. Furthermore, many of the environmental consequences of NAFTA are speculative at best. Thus, the amount of further empirical work that must be done is limited. While in no way preferable, it should be possible, if legally required, to provide Congress with an EIS while it debates NAFTA.

In any event, U.S. Trade Representative Mickey Kantor has pointed out that the Clinton Administra-

## NAFTA

tion is free to submit NAFTA to Congress at the earliest possible moment — regardless of whether the environmental impact statement is finished. Judge Richey did not forbid this. Indeed, as Public Citizen itself has admitted, ". . . the Administration remains fully free to send NAFTA to Congress for approval whenever it wishes, whether or not the office of USTR has completed its EIS by that time." And obviously the Congress, in Public Citizen's words, has "the right . . . to consider the NAFTA with or without an EIS."

In the final exigency, the Administration must be prepared to act.

On its own, Judge Richey's decision cannot derail NAFTA, but it can slow down the train. Any delay in bringing NAFTA to the Hill, however, gives support to NAFTA's opponents. It is up to the Clinton Administration to prevent the battle over NAFTA from being bogged down in a dispute over the reach of the National Environmental Policy Act.

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equal opportunity, as opposed to equal outcomes. This implies treating with suspicion ideas like multiculturalism, diversity, and quotas. In recent years the ADL has supported lawsuits brought by whites claiming to be victims of discrimination. The ADL has also focused on black anti-Semitism, issuing reports condemning Louis Farrakhan and the Nation of Islam, black newspapers that provide a forum for anti-Jewish bigotry, and black politicians and educators who rail against Jewish dollars, Jewish editors, or Jewish conspiracies.

The ADL's attitude is that, where the Jewish people are concerned, there are indeed enemies on the left. Some ADL leaders think that the anti-Semitism of the left ultimately poses a greater threat to Jews than the loud but generally ineffective chauvinism of the fringe right. The ADL has been quite explicit in condemning leftists who preach anti-Semitism, disseminate conspiracy theories about Zionist influence, or consort with those responsible for violence against Israelis, including Yasir Arafat.

The issue goes well beyond the fact that anti-Semitism was the semi-official policy of many Communist régimes, and that East Germans, Soviets, and other Communist countries trained and funded the perpetrators of the anti-Israeli terror. In America, anti-Israel and "anti-Zionist" prejudices were rampant in the New Left, and these attitudes, while somewhat muted, are still encountered and even accepted within progressive circles. Meanwhile, just as anti-Semitism became more tolerated on the left, anti-Jewish attitudes were diminishing among conservatives. Yet to some on the left, the ADL's refusal to oppose "Reaganism" while concentrating on the activities of American sympathizers with Arab terrorists signified that the organization had gone reactionary.

Attention has been focused on files maintained by Bullock in his personal computer that encompassed groups across the political spectrum. There is no evidence that Bullock did anything but maintain files gleaned from the press. Nevertheless, on the basis of those files, the ADL has been accused of "spying" on organizations like Greenpeace, the NAACP, and Peace Now.

Investigative journalists have produced no evidence of ADL violations of political ethics. When the *San Francisco Chronicle* claimed that "numerous

sources" had charged the ADL with using intelligence information "to tar its ideological opponents," the examples listed in the article were hardly convincing, one would expect the ADL to maintain files on Noam Chomsky. Nor is it surprising that the ADL would have been interested in the "Los Angeles Eight," a group that faces deportation for alleged links to the PLO. A *Village Voice* writer seemed alarmed over unsupported charges that the ADL had monitored the comings-and-goings of representatives of

Hamas, the fundamentalist group that has recently emerged as the Middle Eastern terrorist entity par excellence.

The real issue is whether it is legitimate for an organization dedicated to the defense of Jewish interests to investigate those who kill Jews as a matter of ideology. It speaks volumes about the real ideology of certain groups that claim to be working for minority rights that they are now assailing one of this country's bravest adversaries of prejudice and terror for doing its job too well. □



## Knifing NAFTA

by Marshall Breger

Although President Clinton is on record as supporting the North American Free Trade Agreement, his budget director Leon Panetta has declared NAFTA "dead—for now." The pact is about a hundred votes shy of passage in the House of Representatives, where members await guidance from constituents and the freshman class remains acutely sensitive to the wrath of Ross Perot and other anti-NAFTA forces.

The courts, too, have got into the act. In a ruling on a suit filed by three anti-NAFTA environmental and consumer-action groups (Public Citizen, the Sierra Club, and Friends of the Earth), Federal District Court Judge Charles Richey ordered the government in late June to prepare an Environmental Impact Statement on NAFTA. Even Laurence Tribe said that Richey's decision "blows my mind." Richey's heavy-handed intervention will be reviewed by the Court of Appeals on August 24, but if the decision is not over-

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turned, the months that will be required for the EIS studies could put the final nail in the NAFTA coffin.

The AFL-CIO, frustrated by the flight of manufacturing jobs, has been a long-time opponent of NAFTA, even though estimates are that the free-trade agreement will create at least 170,000 jobs over the next five years. (Big Labor's problem is that it cannot be certain that they will be union jobs.)

But the labor unions alone cannot defeat NAFTA. Elite opinion generally supports free trade. And even liberal governors like Ann Richards of Texas and Jim Hunt of North Carolina have signed on. Why, then, does NAFTA teeter on the brink?

Two reasons. First, H. Ross Perot has thrown down the gauntlet. Spending more than \$5 million for a 30-minute infomercial raising the specter of a "giant sucking sound" of high-wage American jobs rushing southward to Mexico's low-wage environment. He has met with the House freshman class and threatened them with voter retribution if they support the treaty. He has challenged U.S. trade representative Mickey

Kantor to a televised debate. Second, with a raft of intense anti-NAFTA constituencies, only vigorous presidential leadership can mobilize a national constituency in favor of free trade, and Clinton has been an irresolute defender of free trade.

During the presidential campaign, Clinton tried to have it both ways, coming out for NAFTA while stipulating that the concerns of labor and environmental groups must be met. But by the time Clinton took office the 2,000-plus-page treaty signed December 17 was fixed, and none of the countries involved—Canada, the U.S., and Mexico—was about to reopen the official text. The only play, therefore, was in the supplemental agreements designed to accompany the treaty to Congress.

In an October 4 campaign address at North Carolina State University, Clinton committed himself to graft social and environmental understandings onto what was previously understood to be solely a free-trade agreement. He proposed a trinational North American Commission on Labor Standards with “independent expert staffs and the authority to review complaints from citizens and nongovernmental organizations.” This rhetorical flourish opened up possibilities for social engineering previously unimagined.

How would the Commission be structured and what would be its powers? At first, some NAFTA skeptics proposed a “kibitzing commission” that would hold hearings and issue reports. Still others favored a tripartite body where “business and environmentalists can sit at the same table as partners with government officials.” Labor and green groups hoped to convert the Commission into a vehicle to enforce child labor and pollution standards throughout North America. And they want the Commission to be run U.N.-style—by an independent secretariat.

**U**nder the guise of fighting to improve Mexican labor and environmental laws, the anti-NAFTA forces are pursuing a *domestic* agenda. Last May, at least seven environmental groups, including the National Resources Defense Fund and the National Wildlife Federation, announced they would support NAFTA—but at a price. They want NAFTA dispute-resolution panels to arbitrate environmental complaints and impose “pre-NAFTA tariffs” on environmentally incorrect goods. More recently, green groups have made creation of a massive

“environmental assistance fund”—that is, a public slush fund for the use of environmental groups—a necessary condition for their support, however lukewarm.

The AFL-CIO, meanwhile, views a North American Labor Commission as the first step toward creating labor standards analogous to the European Community’s “social charter.” Such standards would help American labor unions achieve “co-determination” status on the German model—which gives unions a formal role in national labor policy and corporate decision-making. A revved-up trilateral labor commission could, for example, urge Mexico to adopt a 40-hour week and condemn the U.S. for allowing “striker replacement.”

In its May negotiating draft the U.S. adopted many of the Green/Labor notions, recommending an Independent Commission Secretariat (a new international civil service with its own agenda) and the use of trade sanctions to ensure compliance with accords. Ever sensitive to intrusions on their sovereignty, Canada demurred and Mexico exploded. According to the Mexican newspaper *El Financiero Internacional*, Herminio Blanco, Mexico’s chief NAFTA negotiator, walked away from the negotiating table.

Other recommendations in the U.S. proposal—including a party-initiated complaint process, data collection, and public hearings—should worry U.S. business plenty. Consider the public relations impact of an international organization issuing a report condemning the labor practices or the pollution in a particular industrial plant. This ploy, which the AFL-CIO tries continuously at ILO meetings in Geneva, may now become standard fare here at home.

The principal negotiators and their deputies continued to meet through June and July to bridge the gap over trade sanctions and determine whether to create an independent (i.e., politically unaccountable) trilateral secretariat. But Clinton’s political calculations have made these endgame negotiations considerably more difficult. Instead of touting the economic virtues of free trade, his rhetoric increasingly reflects the social-engineering enthusiasms of the NAFTA opponents.

**M**ickey Kantor’s approach to NAFTA negotiations typifies the Clinton team’s confusion. First these people aimed their efforts at mollify-

ing anti-NAFTA House Majority Leader Richard Gephardt and the greens, assuming that Big Labor would never sign on and that Republicans and business don’t count in the calculus. Gephardt’s price was some kind of sanctions. Thus Kantor conjured up sanctions language, figuring that he could sell it to free-traders (as well as Canada and Mexico) by pointing out that they were window-dressing only.

In congressional hearings, Kantor suggested that this country “manage” market forces by a supplemental agreement to limit “import surges.” Put simply, such a clause would require that if free trade starts to work too well, he will call a halt to it in the affected industry. Then Kantor backed off once again—and proposed monitoring and consultation in the event of surges. As to trade sanctions, Kantor, after running up the flag, may again be backing off. In a meeting July 9-11 in Mexico City, the U.S. responded sympathetically to the Mexican view that trade sanctions imposed by a trilateral commission violate national sovereignty. Some insiders now believe that the U.S. will instead propose some form of fines to be assessed and collected by individual governments.

This backing and filling has brought NAFTA supporters to the edge of despair. The whole point of NAFTA was to eliminate tariff barriers to facilitate trade on both sides of the border. Yet liberal policy-makers still hope to accompany the treaty with all sorts of transaction taxes to support “border clean-up,” “infrastructure improvement,” etc. Early on, Xerox’s Paul Allaire (Bill Clinton’s favorite CEO) proposed a 2.5 percent “training tax” on U.S.-Mexico trade to pay for worker dislocation. Other suggestions before the Clinton National Economic Council include the creation of a “NAFTA Environmental Trust” within the International Development Bank, with \$250 million in start-up capital and \$9.75 billion in “callable” capital backed by the NAFTA countries. Other versions would create a North American Development Bank modeled on the European Bank for Reconstruction and Development, set up to assist former East Bloc countries. This will be a recycled version of Clinton’s stimulus package or—dare one say it—the anti-poverty grants of yore.

Arizona Congressman Jim Kolbe and other Republican free-traders have warned that they may jump ship if the supplemental agreements savage the basic

text. Ultimately, however, if Mexico holds fast, free-trading congressmen and business groups will likely prefer half-NAFTA to none at all. It's the marginal supporters who may well decide that the final Clinton package is not the free trade agreement they originally supported and head for the tall grass.

**N**AFTA or no, Mexico is moving out of the Third World. Its economic integration with the United States will continue to advance even if NAFTA should stall. It is not only the economic but the political effects that should concern us. President Salinas has tied his political fortunes to the NAFTA mast. While his party, the PRI, will survive the 1994 Mexican elections, Salinas's ability to nominate a successor in his own image will be crippled without a free-trade boost.

Mexico will do what it must to get NAFTA, and Canada's NAFTA Implementation Act passed its senate in June, leaving the ball in Clinton's court. It is difficult to see how Clinton can walk away from NAFTA without suffering serious political defeat (and giving Ross Perot a scalp to wave). Political logic suggests that Clinton will engage after the signing (sometime this summer) of supplemental agreements that Clinton can sell as a "social charter" won for labor and green interests. Ironically, the fate of NAFTA now depends on Clinton's political will, and by waiting for the "side agreements" to be concluded before beginning its "sales campaign," the administration has let the NAFTA skeptics set the agenda.

Clinton continues to talk the rhetoric of free trade. However exaggerated the merits of the agreement he reached with the Japanese at the G-7 summit in July, he did trumpet it as a free-trade triumph. As this issue goes to press, the White House is rife with rumors that Bill Daley (brother of Chicago mayor Richard Daley, Jr.) will be appointed "NAFTA czar," supreme commander of the mother of all free-trade battles. At the end of the day, NAFTA may yet limp past the finish line.

Yet one wonders if Clinton's heart is in it. David Gergen, ever obsessed with "focus," may decide Clinton should bump free trade for health care as the project of the season. After all, the president has little political capital left to spend, and may husband it for a cause nearer and dearer to Hillary's heart. □

## CLINTON'S AMERICAN SALOON



### Will He Ever Return?

by Edward Norden

Summerland, California

"Yeah," the Native Son allowed. "Some people got all excited." He was sitting at the bar of the Nugget polishing off an espresso and sucking an unfiltered Lucky Strike, and his reference was to the visit that made this hang-out and the village it is in renowned. "UNOFFICIAL WESTERN WHITE HOUSE RETREAT"—such is the language on the cocktail napkins that Nugget owners Doug and Sally Taylor had run off without delay and continue to use. Of course there are also the for-sale T-shirts, the autographed photos on the wall, the unused saxophone. The historic visit was over Thanksgiving. Now Bill Clinton's first Independence Day as commander-in-chief was looming, and no one was really expecting him to keep his promise to return and kick back. Which was all right with the Native Son, because for him this vacation White House business was just a pain.

Espresso, it should be pointed out, is not the Native Son's beverage of choice, nor is the Nugget a coffeehouse. It's just that it has something for everyone and that he had a load of cucumbers to haul to L.A. in his 18-wheeler, for which trip he needed a clear head. Thirty-three years he's been driving this route, and in that time he's seen his birthplace and hometown change, and not for the better. Why, there was a time when people treated each other like family. Now with these newcomers coming in with their attitude and good taste, well, the Native Son could only shake his head.

The current president, not a bad guy you

Edward Norden is a frequent contributor to *The American Spectator* and *Commentary*.

understand, hadn't gotten his vote. As for who he did vote for, we'll just let that ride, okay? The fact is that over Thanksgiving, he had felt like a prisoner in his own home, what with the mobs of Secret Service, Highway Patrol, media, tourists, gawking locals, and so on. The Native Son had two things to say before hitting the road. First, he wouldn't be unhappy if Bill and Hillary never came back. Second, Doug sure acted quick and smart—"those shirts are all over the world."

**B**eth, the assistant manager tending bar, was wearing one. "THE NUGGET FOR GOOD SAX AND BURGERS" it said. New Hampshire is where she is from originally, and indeed the clapboard houses of Summerland are enough to make a New Englander nostalgic. H. L. Williams founded the village as a spiritualist colony in 1889. Drive inland from the coast, with its greenhouses and fruit orchards where undocumented Mexicans earn many times what they'd get at home, and you can still turn up a few graying hippies in trailers. Summerland in this respect is like a bit of Northern California, or Oregon, transplanted to the heart of Reagan Country, for the great man's ranch is just over the mountains, and neighboring Santa Barbara and Montecito went for Ron on landslide.

Owners Doug and Sally, unrepentant Reaganites, thus felt and still feel at home. On any given evening, in addition to the tourist cars, you can see both old Americans pick-ups and new Mercedes parked in front of their place. This is because Doug and Sally's red meat and booze are consumed by, among others, the haves and retirees of Montecito, and because Summerland itself was, as the Native Son

Mr. PETERSON. Thank you, I am sure that will generate a few questions. Mr. Levinson, welcome back to the committee.

**STATEMENT OF JEROME I. LEVINSON, VISITING SCHOLAR,  
ECONOMIC POLICY INSTITUTE**

Mr. LEVINSON. Thank you. I will be brief.

I think you have to start with why are we here? We are here because Bill Clinton on October 4, 1992, at Raleigh, NC, in effect made a commitment that he wouldn't submit the implementing legislation of NAFTA unless there was a serious attempt to level the playing field with respect to worker rights between Mexico and the United States.

And he did so because of the perception and the reality that in Mexico there are major problems in labor relations which put American workers at a competitive disadvantage in terms of the ability to attract investment capital.

The standard that ought to be considered with respect to these side agreements is, do they enable the Mexican workers, do they empower the Mexican workers to defend their own interests, which is what has been lacking in Mexico, independent trade unions.

Independent of what? Independent of government control. That is why we are here. That is why they had to negotiate a labor agreement. That is why Kantor had to spend 8 months trying to negotiate some minimum protection, because the Mexican system obstructs the formation of independent trade unions. As Mr. Breger's own testimony states, there are major impediments in Mexico to the formation of independent trade unions.

Everything that is in this trade agreement and the side agreement on labor is an attempt to compensate for that basic fact, that Mexican workers are unable to defend their own interests through independent trade unions and union leaders of their own choosing.

And that when union leaders attempt to defend the interests of the workers they represent, but get out of line with the Mexican Government's policy, the government follows a policy of intimidation, physical intimidation. We saw that with Agapito Gonzalez in Matamoros who succeeded in unionizing the maquiladoras there. He wanted to gain for the workers a greater share of the productivity gains.

The companies complained to the government of Mexico. He was picked up on his way to his car after work, bundled on a plane to Mexico City, grilled throughout the night as to alleged tax evasion 4 years ago, and when he begins to wheeze and hyperventilate, he is confined in a hospital and held incommunicado.

Mr. Breger has referred to the collective bargaining issue, interference with a company union negotiations. What differentiate Mexico and what calls for this labor rights agreement attempt to introduce minimum protections is that the Mexican Government directly intervenes in these collective bargaining negotiations to ensure an investment climate which will attract foreign capital.

What did they do in the Volkswagen case? It was a collective bargaining dispute. According to Business Week, hardly a leftist journal, Salinas gave Volkswagen the go-ahead to tear up the collective bargaining contract; 14,000 workers were dismissed; 300 "trouble-

makers" never got rehired. With a few examples like this, you intimidate the entire Mexican labor sector.

What labor leader is going to negotiate aggressively after what happened to Agapito Gonzalez? What union is going to object to changes in work rules, which is what Volkswagen did to provoke the strike, after Salinas gives Volkswagen the right to tear up the contract and dismiss 14,000 workers? That is the heart of the problem. And that is what proponents of the NAFTA don't want to deal with.

What does the labor side agreement provide as a remedy for these industrial relations abominations? It says that Mr. Reich can consult with the Mexican Minister of Labor, Arsenio Farrell Cubillas.

Mr. Cubillas is described by the United States Embassy in Mexico City in a report distributed by the U.S. Labor Department as the guy who was responsible for the strong-arm tactics to enforce the government's tough antilabor, antiunion policies.

So, in effect you have given Mr. Reich the privilege of consulting with a man who is primarily charged with perpetrating the labor abuses. This is equivalent to saying to Janet Reno, you can consult with Don Corleone over the enforcement of the criminal law, because this guy is the Mexican labor relations equivalent in terms of strong-arm tactics of the government.

That is the heart of the matter of the labor relations issue in Mexico. That is what should have occasioned the Clinton administration to lay down a marker for the future to say we are in a global economy. There are global production patterns but we are not going to expect a ratcheting down of standards.

We are going to demand a harmonizing of standards up if you want agreements on trade and investment with us which give you access to our markets. And that does involve minimum respect for internationally recognized labor rights. That is what EC said to Spain and Portugal. You want to come into the community, then you have to have free trade unions and independent judiciary, free press, and functioning Democratic parliamentary multiparty democracy.

Of course NAFTA was not conceived as a common market, but the NAFTA is more than a free trade agreement. It is a free trade and investment agreement. And because it is an investment agreement, the labor relations climate is central to that climate to attracting investment. The sad fact about the side agreement as negotiated by Mr. Kantor is that it betrayed Mr. Clinton's—candidate Clinton's promise of October 4, 1992, to assure a minimum level playing field. They have not done that. On the contrary. They have really sold out on labor rights. And that is what is wrong with this side agreement.

I won't go into the other parts of it except to make two comments. First there is a double standard. With respect to property rights, one violation is immediately actionable. They set up a standard that they have to show a persistent failure to enforce the law with respect to violation of labor rights. With respect to property rights, any violation is immediately actionable.

And second, the issue of whether or not you are trying to impose American standards, you are not. That wasn't at issue here. The

fact of the matter is that in Mexico, the governing body of labor relations are these conciliation and arbitration boards and they are stacked because the members of the board are appointed by the government.

And only labor members who are part of the official labor confederations are part of these arbitration and conciliation boards. So they work against independent trade unions. And it is because the whole deck is stacked against Mexican workers being able to defend their own rights that this agreement was so central and is so fundamentally disappointing.

Thank you.

[The prepared statement of Mr. Levinson follows:]

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# Economic Policy Institute

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**THE NORTH AMERICAN FREE TRADE AGREEMENT:  
THE LABOR SIDE AGREEMENT**

**Testimony**

before the  
**EMPLOYMENT, HOUSING AND AVIATION SUBCOMMITTEE**  
of the  
**U.S. HOUSE OF REPRESENTATIVES**  
**COMMITTEE ON GOVERNMENT OPERATIONS**

September 9, 1993

by

**Jerome I. Levinson**

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Thank you for your invitation to testify on this important subject. I understand you and your colleagues have already received a more lengthy report on the labor side accord to the North American Free Trade Agreement (NAFTA), which I have prepared for the Economic Policy Institute.

Your first question asked for a full discussion of the enforcement mechanism under the side agreement, particularly with respect to the right to organize and bargain collectively. This is the heart of the labor relations problem in Mexico. The purpose of the side agreement should have been to empower Mexican workers to defend their own interests, without the need for foreign intervention. However, this objective was not accomplished.

The short and brutal conclusion is that the side agreement provides no effective remedy for the abuse of worker rights in Mexico, particularly the right to organize trade unions free of government control and to bargain collectively. Indeed, the side agreement excludes industrial relations matters from any remedy other than consultation among the members of a Ministerial Council that is established to oversee the execution of the side agreement. The members of the Council are the Ministers of Labor of the signatory countries of the NAFTA. Alleged violations of the right to organize, bargain collectively, and strike--internationally recognized worker rights--are thus excluded from the further processes of the side agreement: appointment of a Committee of Experts, arbitral panels and, ultimately, possible

trade sanctions.

These further remedies are reserved for alleged persistent patterns of failure by a country to enforce national laws relating to: (a) child labor; (b) minimum wage; and (c) health and safety standards. These further remedies are more illusory than real. The enforcement process contains loopholes large enough to drive a Mack truck through. However, I will not elaborate further on this subject. It is covered in detail in the report to which I have previously referred. Our concentration here is upon empowerment of Mexican workers to defend their own interests and, thus, level the playing field upon which American workers are asked to compete.

In explaining why "persistent" violations of the right to organize independent unions, bargain collectively and strike were limited to consultation among Ministers, the U.S. Special Trade Representative (STR) explained (at a press conference on August 13) that the parties feared that making these rights subject to investigation and possible sanction by arbitral panels could interfere with individual collective bargaining between unions and companies. This explanation is not convincing. What distinguishes the Mexican labor relations situation from that of the United States and Canada is the persistent intervention of the Mexican government to deny Mexican workers the rights that we take for granted here in the United States (and in Canada).

I have previously testified before this sub-committee as to specific instances in which these rights have been denied to

Mexican workers (Labor Organizing in Mexico--a NAFTA Issue, July 15, 1993). In that testimony, I described in detail the two most notorious cases that occurred in 1992: the Volkswagen strike and the case of Agapito Gonzalez.

To briefly recapitulate, Volkswagen provoked a strike by unilaterally tearing up a collective bargaining contract; this was done, according to *Business Week* magazine, with the explicit approval of the President of Mexico (*Business Week*, April 19, 1993). 14,000 workers were dismissed; 300 dissident union member workers were not hired back.

Agapito Gonzalez was the union leader in Matamoros, Mexico who organized workers in the Maquiladora factories, largely owned by U.S. companies. The companies complained to the President of Mexico that Gonzalez was ruining the investment climate in Matamoros. Shortly after this complaint, Gonzalez was arrested by Mexican police, bundled on a plane to Mexico City where he was grilled throughout the night by two Mexican magistrates with respect to four-year-old charges of tax evasion. Without the benefit of lawyers, family, or union associates, he was held incommunicado for several months.

What the two cases have in common is the direct intervention of the Mexican government in support of the company position in a collective bargaining dispute. If the fruit of collective bargaining, the contract, can be abrogated unilaterally by the company, with the approval of the government, as in the Volkswagen case, then the right to bargain collectively has been

effectively abrogated. Similarly, if the government intervenes as it did in the Gonzalez case to intimidate a union leader in the midst of collective bargaining negotiations, then there is no right to bargain collectively. This, despite the fact that the Mexican constitution (Article 123) nominally guarantees such right to bargain collectively, and the International Labor Organization (ILO) Convention 87, to which Mexico nominally adheres, accords the same right.

The standard adopted--the need to show a persistent pattern of failure to enforce national laws--misconceives the nature of the problem in Mexico. To intimidate Mexican workers and union leaders, the Mexican government does not need many examples. What Mexican worker after Volkswagen dismissed 14,000 workers is going to oppose unilateral work rule changes and salary reductions? What Mexican union leader is going to negotiate aggressively on behalf of his membership after what happened to Agapito Gonzales? Why shouldn't the Volkswagen workers and Agapito Gonzalez, without the need to show anything more than their own cases, have redress under the labor side agreement?

But even if they can overcome the hurdle of the need to show a "persistent pattern" of failure to enforce Mexican labor laws, there is still no effective remedy under the labor side agreement. The most that they would be entitled to is that the U.S. Secretary of Labor (or his Canadian counterpart) would have the right to have a consultation with the Mexican Minister of Labor, Arsenio Farell Cubillas. Such consultations are

meaningless. The U.S. Embassy in Mexico city has described the role of Farell Cubillas in enforcing with strong arm tactics the tough wage and anti-independent union policies of the Mexican government (Foreign Labor Trends, 1989-90). Consultation with the perpetrator of the abuse of worker rights in Mexico, Farell Cubillas, is roughly analogous to giving Janet Reno the right to consult with Don Corleone over the enforcement of the criminal laws.

In short, the labor side agreement is without teeth when it comes to Mexican violations of the rights to organize and bargain collectively. The pity is that the Clinton Administration missed an opportunity to lay down a marker for the future. It could have said that in adapting to global production patterns it does not accept a ratcheting down of basic worker rights. It could have said that those countries that wish to have agreements with the United States with respect to trade and investment must accord their workers internationally recognized worker rights, notably the right to effectively (a) organize trade unions independent of government control, (b) bargain collectively, and (c) strike. In the Mexican context, assuring those rights for Mexican workers would have empowered them to look after their own interests. American workers would not have been asked to compete with a system in which unions and wages are controlled by the government to create a climate designed to attract foreign capital.

**GSP Worker Rights Provisions**

You have also asked me to discuss how the enforcement mechanism of the Generalized System of Preferences (GSP) legislation compares with the labor side agreement.

Under the GSP, a country which is a beneficiary of the legislation must "have taken or be taking steps to afford workers (including workers in any designated zone) internationally-recognized workers' rights." Anyone can bring a petition before the U.S. Trade Representative requesting a review of a country's GSP status on the grounds that it is violating the above provision.

With respect to Mexico, there have been two petitions requesting such review. The first petition was brought in 1991 by three trade unionists in Minneapolis. It was rejected by the GSP Subcommittee on the grounds that the petition was "insufficient to warrant a review, and it was not clear that the information provided fell within the statutory provision." Apparently, the fact that the NAFTA was being negotiated weighed heavily in the decision.

A second petition was filed in 1992 by the International Labor Rights Education and Research Fund (ILRERF). This petition was based upon, "information contained in the U.S. State Department's Human Rights Report for 1992 on Mexico, reports by trade union groups, human rights organizations, independent research institutes and other specialized bodies, and information acquired through reports provided by and interviews made with

labor lawyers and labor rights activists in Mexico" (Petition/Request for the GSP status of Mexico, June 1, 1993). It is still pending before the Trade Representative.

We have not as yet seen the draft implementing legislation for the NAFTA proposed by the Clinton Administration. However, it is likely that the GSP procedure and potential sanction of the removal of GSP status will be replaced by the labor side agreement. Indeed, presumably the advantages of GSP status will be obviated by the NAFTA. We will be abandoning the direct simple procedure of the GSP, and the prospect of a really effective remedy, the withdrawal of GSP status, for the convoluted procedure of the labor side agreement. And at the end of the road of the side agreement is the exciting prospect of a consultation with the main perpetrator of the abuse of worker rights in Mexico--the Mexican Minister of Labor!

#### **Multi-lateral Financial Institutions**

Although you did not ask me specifically to discuss worker rights and the multi-lateral financial institutions, there is a clear Congressional mandate on this subject that has been generally ignored by the U.S. Treasury Department. It is directly relevant to the subject matter of this hearing. That mandate directs the Secretary of the Treasury to instruct the U.S. Executive Directors of these institutions to use "the voice and vote of the United States" to influence such institutions to encourage borrowing countries "to engage in fair labor practices

consistent with internationally recognized worker rights." The institutions that are subject to this mandate are the Bretton Woods institutions: the World Bank and the International Monetary Fund (IMF); and the regional development banks: the Inter-American Development Bank (IDB), the Asian Development Bank (ADB), the African Development Bank, and the European Bank for Reconstruction and Development (EBRD).

The U.S. is the single largest contributor to the Bretton Woods institutions and the IDB. Billions of dollars are loaned by these institutions to borrowing countries. Mexico, in the three-year period 1990-92 alone, borrowed from the World Bank and the IDB \$8.1 billion for development purposes. These loans (and others from the IMF) were conditioned upon fiscal reforms, privatization of state enterprises, import liberalization, and deregulation of important sectors of the economy.

Notable by its absence was any condition relating to respect for worker rights. Yet the United States Executive Directors in the World Bank, the IDB and the IMF voted in favor of each of the loans to Mexico without ever raising the issue of abuse of worker rights by the Mexican government. These Directors receive their voting instructions from the Treasury.

Under the labor side agreement, the congressional mandate to elevate worker rights to at least the same level as financial and economic reforms in the multi-lateral financial institutions will now be substituted as well by the labor side agreement. Put another way, the U.S. government has had at its disposition

effective instruments for influencing the right to organize and bargain collectively in Mexico: the GSP review and the votes on loans to Mexico of the U.S. Executive Directors in the multi-lateral financial institutions.

During the Bush Administration, it chose not to use those instruments. What has been lacking is the political will to make worker rights in Mexico an issue as important as financial and economic reforms. The Clinton Administration now proposes to substitute for these potentially effective instruments of policy-instruments with real teeth--a completely ineffectual labor side agreement.

#### Redress in the Mexican Courts

Finally, you have asked for suggestions as to what measures could assure equity for Mexican workers in the Mexican judicial system.

It is illusory to believe that it is possible to devise technical fixes to assure equity in the Mexican judicial system, particularly with respect to worker rights. Mexican labor disputes are adjudicated by Conciliation and Arbitration Boards. Unions are registered by these boards. Without registration, unions cannot bargain with employers, call strikes or represent workers' grievances. The boards are made up of labor, management and government representatives. The labor representatives are appointed by the government and are invariably drawn from the official union organizations.

The boards have become an obstacle to registration of independent unions, that is those that are not affiliated with the official union confederations historically dominated by the government party, the PRI. Through the influence of the Minister of Labor, they are also the means by which the government enforces its low wage policy and inhibits strike actions and aggressive collective bargaining on behalf of workers. Because they are such a key instrument through which the government controls labor, they cannot assure "fair, transparent, and equitable" adjudication of labor relations matters.

There are, in my opinion, no short-term technical fixes that can assure equitable adjudication of labor relations issues. The question is tied up inextricably with the authoritarian character of the Mexican government. An independent judiciary, labor relations boards, labor unions, as we know them in the United States, Canada and the Western European countries, do not exist in Mexico. Rather, these institutions are subordinated to the policy objectives of the government.

The side agreements on labor and the environment are attempts to circumvent this basic characteristic of the Mexican system. That is why, with the best will in the world, they could not succeed: the basic system of control remains intact. And this was the central fallacy of the NAFTA: the belief that one could meld two systems of government on trade and investment matters that are as fundamentally different as are those of Mexico and the United States and Canada.

The Europeans recognized this truth. The members of the European Community required Spain and Portugal to adopt as a precondition to membership in the Community democratic institutions: a free press; independent trade unions; multi-party political democracy, with the guarantee of free elections; an independent judiciary. It is true that the NAFTA was never conceived in the same terms as the European Community. But the NAFTA is more than a free trade agreement. It is, as well, an agreement that governs investment. And part of the climate that Mexico is offering as an inducement to attract investment is the controlled labor system now prevailing in Mexico.

A change in that system would require a change in the development strategy of the Mexican government. For that strategy depends upon attracting foreign capital, preferably direct investment to finance a burgeoning current account deficit. And a key element in attracting that capital is the ability to offer a stable, low-wage labor environment. And a central element in ensuring that labor-stability/low-wage environment is the ability to repress labor unrest and intimidate union leaders that do not toe the government line. In these circumstances, to talk of assuring "fair, transparent and equitable court proceedings" with respect to labor relations matters is unrealistic.

### A Strategy in Trouble

The Mexican development strategy and reforms are generally depicted in this country as a great success: the fiscal accounts are in balance. Inflation has been brought down to single digit-levels. Mexico enjoys access to international capital markets. Markets largely determine the allocation of resources. Defeat of NAFTA is represented as jeopardizing this success story.

But there is another part to the story, which is not so well publicized. The Mexican strategy is in great trouble. As summarized by the most recent Country Strategy paper of the World Bank (which has been summarized in Mexico by the Mexican press): (a) the current account deficit is very large, \$22.9 billion in 1992, or 7.1 percent of GDP; (b) there has been little accompanying expansion in investment; (c) private savings have been in steady decline since the late 80's, implying increased dependency on foreign finance for investment; (d) capital inflows have changed in character recently, now driven more by the large differential of Mexican over international interest rates; and (e) Mexican banks and corporations have borrowed so much from abroad that the consequent exchange rate exposure of the banks is a matter of concern.

The Mexican economy has not responded to the economic reform measures: GDP growth in 1992 was 2.6 percent, down from 3.7 percent in 1989-91. The World Bank has no answer: "Perhaps the most puzzling question is why GDP and productivity have not grown more. Their present growth rates are low by historical standards

as well as in comparison with other countries with successful adjustment programs" (World Bank Country Strategy Paper, Mexico, 1993, pp. 1-4).

In other words, there is a financial crisis brewing in Mexico. The Salinas government will not yet adjust an overvalued peso by devaluation against the dollar. To do so in the months before President Salinas selects his successor as the candidate of the PRI to the presidency of Mexico would be politically devastating. The current account deficit continues to grow. This tendency forces the government to do one of two things: (a) rely on interest rate-sensitive foreign capital flows, which are notoriously volatile and extremely sensitive to political or economic bad news; (b) slow the economy to stem the flow of imports. It appears the Mexican authorities have opted for both policies: the economy has virtually ground to a halt, but the current account deficit has not noticeably diminished; it, therefore, requires continued financing.

In summary, the extremely weak labor side agreement negotiated by the USTR is one important reason to vote to defeat NAFTA in the Congress. NAFTA proponents will warn you that a "no" vote will result in a flight of capital and a resulting economic crisis. But the crisis in the Mexican economy is already well under way. It may be irreversible. The NAFTA should be understood as a last desperate attempt to shore up a failed economic development strategy. The determination of the Clinton Administration to push forward in the Congress with the NAFTA,

even with a patently inadequate labor side agreement, is ill-advised. It is a measure of the vulnerability of the house of cards that is the Mexican economic strategy, which has been so uncritically endorsed by the international financial community.

Mr. PETERSON. Thank you Mr. Levinson.  
Ms. Wallach.

**STATEMENT OF LORI WALLACH, STAFF ATTORNEY, PUBLIC CITIZEN**

Ms. WALLACH. I am Lori Wallach, an attorney with Public Citizen, and I would like to thank the committee for inviting me to testify. My area of expertise is with environmental and consumer issues and I am much more involved with the environmental—

Mr. PETERSON. Why don't you move the microphone so that we are sure to hear you.

Ms. WALLACH. However the committee staff asked if I would come today and address the legal and structural issues common generally to the side agreements and to the two commissions established under two side agreements and address what is in the side agreements and what is not. And I have in some detail written that out and I will summarize now hopefully quickly.

I would start by asking the committee to turn to the chart that is attached to my testimony, this picks up where Mr. Levinson left off. It is a chart that basically shows what President Clinton in October said were the failings, the missing pieces with the problems with NAFTA.

The chart points out, basically, that Mr. Clinton agreed with the majority of United States citizens groups and as well, with Mexican and Canadian citizens groups with whom we work that NAFTA as it was, the deal that Bush signed, would cost jobs, expose environmental and consumer laws to challenge, expand United States corporate pollution in Mexico, hurt family farmers, and undermine Democratic decisionmaking here in the United States.

The chart basically lists in one column everything that Mr. Clinton said ought to be addressed and the sad fact is that the majority of NAFTA's fundamental flaws simply never made it to the negotiating table. They just weren't part of the discussion. It is not that great of a surprise that the side agreements that came out, in fact, didn't deal with NAFTA's real flaws. What did they deal with? Really only one of the issues that candidate Clinton addressed and that was the issue of nonenforcement of existing domestic environmental and labor laws.

As a principle it may have been useful to figure out how to deal with that issue. Unfortunately on that one point, as previous witnesses have pointed out, there really are such fundamental flaws in the side agreements and in the commissions that they set up that one might argue that even that one goal is not obtained, and I would turn to the best evidence of that to the quote that Chairman Peterson repeated of Jaime Serra Puche, the top Mexican trade official who was widely quoted in the press after saying, basically said don't worry about the side agreements if you are concerned about the sovereignty issues. They don't mean anything. We are never going to get to any point where they are going to go in our business. That is the most damning evidence of all since he was at the table and knows what the contents of the deal actually were.

The labor and the environmental items are different but there are common problems procedurally and legally. What was done was

the establishment of commissions and a set of recommendations for how countries ought to behave at home. The recommendations are not enforceable in any way, but it is nice language about openness and providing for a forum for participation. The commissions themselves provide some limited mechanism for review of one area; the enforcement of existing environmental and labor laws.

Now mainly the commissions will be doing studies. However, when they will do reviews, it will be of a very limited set of issues limited within a limited set of environmental issues and limited set of labor issues. And the processes of the commissions are really unworkable. And if your vote is not called—I brought a chart. It took four pages to lay out the maze of steps, starts, stops, new filings, deadlines, lack of deadlines which I would be happy to walk through.

That is the environmental agreement. That one is considered much more workable.

These commissions to the extent that they deal with any enforcement action, any kind of review can only look at from existing laws. If there is no law—an effective law in a country that is causing a problem, it is out. Only limited categories within that limitation. So for instance, as the expert witnesses from the labor movement testified, very few of the key labor issues can have a review.

Same thing with the environment. Basically it is smoke stack pollution. You have to have a consistent pattern of violations. That to me would be something that should get attention. It is not a pattern. The agreements define that you need a pattern throughout the review process. To go further, to get a factual record study, you need two-thirds approval by the governments. So any given time when things start to get messy, one can start to negotiate with another and block it and make it go away.

In the commission process, there is really no public participation. They are sort of sham commissions for citizen advice put together. These commissions have no right to have any information that the general public cannot have, which is basically no information. The documents can only be released if two-thirds of the governments approve it.

As well, there is no access for the commissions to do any investigations. Only publicly available documents, those available not through court order or subpoena, are the only documents that the commission is requested to use to come to any studies or determinations of review.

And then finally at the end of this huge maze, assuming all of the hoops have been jumped through and this incredible process that plays out over 250 days in the environmental agreement, assuming you make it that whole way through, at the end, governments out of general revenue are going to pay fines, not the companies that are doing whatever it is that is being questioned. It is the government. It is going to come out of taxpayers' pockets. And the funds are limited, \$20 million or 0.007 percent of trade between the NAFTA countries.

Finally, at the very end, if the fines are not paid after another time period, it is possible to go and recall the panel that heard the case, and in the case of Mexico or the United States, for sanctions simply sanction up to the amount of that \$20 million or 0.007 just

to satisfy that bill. And for Canada, it is sent to court to have the Canadian courts enforce a similar procedure.

Legal status. They are written as freestanding international agreements. They are connected to NAFTA only politically. And I bring that up because it is a key point that was made during the Bush administration which the Bush administration proposed very similar environmental agreement to the one we got as a way to calm the environmental concerns about NAFTA.

The point being, if you take a walk on the side agreements, there are no ramifications for your NAFTA side agreements. They are not one legal package. The environmental agreement is clear and the labor one less, it makes clear that every other international agreement that at least two parties are party to trumps the side agreement; NAFTA, GATT, any international agreement. And considering how much bad jurisprudence is in GATT, this limits what already was a very limited agreement.

And two final matters. They are not directly linked to the side agreements, but I think they become a center of the debate. And really what the total NAFTA outlook is, is the key concerning how the side agreements are. The first question is one that comes up all the time.

If companies are leaving to Mexico, why is NAFTA worse and don't the side agreements fix it? There are three clear points. No. 1, NAFTA is thousands of pages of investment rules. It very specifically opens up new areas of investment for United States dollars to be drawn toward investment in Mexico to take advantage of low wages in services, telemarketing, repair, jobs that you would think of as those that would not be manufacturing jobs.

In these sectors now, U.S. investors can open up shop. And in agriculture for the first time since the Mexican revolution, foreign investors will be allowed to own land and can set up plantation-style agriculture. Similarly in the oil sector, an area otherwise totally closed, the United States can directly invest there. Clearly there is one that the labor is not the greatest savings. Those are just a few of why there is a much greater draw.

No. 2 is that NAFTA eliminates a lot of uncertainty for investors in Mexico. This is the case of expropriation of capital. There is a time line and you get paid back in a time line in domestic currency.

And the same thing avoiding Mexican courts. There is a variety of dispute mechanisms. There is a general dispute resolution in NAFTA and you can basically avoid the Mexican courts. And the third thing which is worse, NAFTA sets up a whole court system that allows existing domestic environmental labor consumer laws that stop trade and conflict with NAFTA's rules to be challenged and ultimately the United States will have to toss out the laws that are found in conflict or pay trade sanctions to keep them.

Those are three points that do not exist now that if there was this NAFTA, would be in place and these side agreements, neither of them, touch any of that.

And the final point is about inaccuracies. This pertains to the environmental side agreement, but I clarify it every time I have a chance. The administration's official summaries—and I wish the administration was here because I am curious where some of the

information in the summaries came from—suggested several points that are not accurate.

No. 1. Despite what the summary said, there is nothing in the NAFTA side agreement, unfortunately, that would forbid or make a violation for NAFTA countries to lower their laws. It simply doesn't exist. That was in the summary: No country can ever lower their law again or there is a fine. That is not true.

And finally, as the issue of what happens with States, States under the summary were defended as not having any NAFTA effects. The summary stated basically that there should be no fear because States can have under NAFTA laws stronger than the Federal Government. That has never been the issue. That is true and it has always been the case.

The problem is if any State or local law is stronger, more restrictive than the international trade standards in NAFTA, that is when the State law gets clobbered and the Federal Government would be obliged to eliminate the State law. That is one of the obligations that the Federal Government took on. The side agreements do not touch that.

And with that, I would summarize and say that mainly on the basis of what wasn't in the side agreements, and not so much on how weak the side agreements were, Public Citizen has joined with its 70-plus coalition partners in the national citizens campaign, the citizens trade campaign, environmental, labor, religious, in saying that NAFTA would be a bad deal for the United States. And to the extent that the side agreements were an opportunity to fix it, the opportunity was lost.

And so on behalf of Public Citizen, I would urge a vote no on NAFTA when it comes before the Congress in the fall. Thanks.

Mr. PETERSON. Thank you very much. We appreciate you being with us today.

The gentlelady from Florida, do you have any questions? I am going to let you go first. Do you have any questions?

Mrs. THURMAN. No, I am fine, really. Thank you.

Mr. PETERSON. Mr. Breger, you heard Mr. Williams testify that the labor side agreements fail to protect workers' rights. And in your testimony, you acknowledge that Mexico's system requires government approval of existing unions and all of this. And then you summarize later.

Are you saying that the situation demonstrates that Mexico's workers have the right to organize freely and collectively bargain free of government intervention? Is that what you are saying?

Mr. BREGER. Yes, with some caveats. You have to step back and look at the context. There are balances that are struck in the Mexican labor law that are different than the balances that we strike. They are valid balances. I may not completely agree with them, but they are valid approaches.

In the first place, Mexico protects a strike if it is what we would call in America an economic strike. They do so much more than in the United States. If there is a strike that is a legal strike, the management can't say we will stay open. By law, they can't operate.

Mr. PETERSON. How do you ever get to a legal strike?

Mr. BREGER. I will speak to that in a moment, sir. They cannot fire strikers. There are no right-to-work laws in Mexico. On the other side of the balance, they put a great deal of stress on mediation and conciliation. So before you can strike, you have to give notice of strike to the mediation and conciliation service. Not like our FMCS, but a mediation and conciliation service. And you have to go through a conciliation process. Often people file to strike as a way of sabre rattling and then they will settle in the conciliation process.

But then, if you announce you are going to strike, if nobody complains and says the strike is not legal, you can go forward, unless the government finds that it was brought for an invalid reason. So the government has an involvement in the collective bargaining process. That is part of the balance. But it is not a situation where there is total government control. It is not a situation which you did have in the former Soviet Union where you had stooge unions.

I mean I have not been told—I will be happy to learn otherwise—that the AFL-CIO in the past refused to sit down with the head of the CTM saying "You are a stooge union owned by the government." As you know the AFL-CIO would refuse to sit down with the former head of the so-called unions in the former Soviet Union or in other dictatorships.

Until NAFTA became a political football, the fact that 36 percent of Mexican workers are unionized and only 13 percent in the United States, the fact that the union movement had strong relations with the government, with the PRI, stronger even than some may say the relations between unions and the Democratic Party here, was viewed as somewhat positive in certain circles.

The AFL-CIO has never said that the CTM are stooges of the government, at least to my knowledge, and have never refused to shake hands with the leaders of the Mexican union.

Mr. PETERSON. But the AFL-CIO doesn't have anything to do with this.

Mr. BREGER. I am trying to answer your precise question now. Do the Mexican workers have rights? They have absolute rights in their constitution to organize, they have rights to strike.

Mr. PETERSON. Mr. Breger, we had pretty explicit testimony in this committee that was to the contrary. People come in and say that when they tried to organize, they were threatened and beaten, we even heard a person was killed. These were Mexican workers from Mexico. Were they lying?

Mr. BREGER. I am not suggesting that they are lying. I am not going to tell you that Mexican labor practice is hunky-dory, that it is in utopia. I am not going to tell you that U.S. labor practice is utopia and hunky-dory. You could have a hearing, or next year the Mexican parliament could have a hearing, with United States workers coming in to say they had problems organizing.

Mr. PETERSON. They were beaten?

Mr. BREGER. I suspect you could find that. History has shown a lot of rough and burly activities. The fact is that in the law and in practice, Mexican workers have the right to organize. They have the right to register their union.

Mr. PETERSON. As long as they are in the government union.

Mr. BREGER. That is incorrect.

Mr. PETERSON. That is the testimony we had.

Mr. BREGER. I believe that testimony is incorrect.

Mr. PETERSON. Mr. Levinson, what do you think?

Mr. LEVINSON. I think that Mr. Breger has set up a construct of a formalistic approach to this. He is quite right in terms that the formal provisions in Mexican law that are quite attractive, but the fundamental difference is that the U.S. Government is not going to pick up a labor leader in the midst of a negotiation when the company complained, bundle him on a plane, take him to another city divorced from friends, relatives, lawyers, and subject him to the kind of mental abuse that they did with Gonzalez Cavazos. That is an intervention.

The President of the United States, Bill Clinton, George Bush, or Ronald Reagan, is not going to give the Volkswagen management the go-ahead to tear up a contract and unilaterally reduce wages and benefits without it being a great scandal in this country.

We have a press hopefully that will report that kind of thing and we still have a Judiciary where you can get redress. That is what Mr. Breger doesn't want to admit and the proponents of NAFTA don't want to admit: That this is a controlled labor system where the government, through various devices, the labor union leadership of the CTM, not only the CTM, but other official federations are rewarded with jobs by the government, so they are more susceptible to the dictates of the government than they are to the interests of their own members.

There is a built-in conflict of interest. What we are all trying to compensate for here is the fact that this is an authoritarian system from top to bottom. The labor side agreement was an attempt to get around that basic fact and introduce some minimal protection of internationally recognized worker rights which Mexico nominally adheres to. It adheres to ILO convention 87, which accords the right to collectively bargain. But in fact, when labor union leaders depart from the government guidelines, they are subject to the kind of physical intimidation that took place.

Volkswagen was a replay of Ford Motor Co. a couple of years ago. Ford unilaterally reduced wages and benefits. The workers struck. The government, CTM sent in a bunch of union busters. The only difference was at Volkswagen, nobody got killed. At Ford, people were killed and injured.

They don't want to recognize the heart of the problem in the Mexican labor relations system.

Mr. PETERSON. I need to ask Ms. Wallach a question. As I understand it, the Mexicans raised this problem or raised the issue of national sovereignty and they couldn't change the labor laws. Isn't it a fact that when it came to intellectual property and it required a change in Mexican law, that they went in and made those changes to allow for a much expanded access to the courts for copyright and patent right holders and evidently that was not an infringement on national sovereignty, but when they came to labor law changes, it was?

Ms. WALLACH. That would be an accurate description of the dichotomy.

Mr. PETERSON. Why did they do that do you suppose?

Ms. WALLACH. You are referring to what Mr. Sarpucci said, they couldn't infringe on sovereignty to make those changes.

Mr. PETERSON. Right.

Ms. WALLACH. The underlying philosophy when the NAFTA itself was first negotiated was one of international trickle-down economics where a very raw free market deregulatory philosophy was seen as the way one would best set up trade agreements, and through that perspective property rights, in this case intellectual property rights as well as the chapter 20 dispute resolution procedures of NAFTA, certainly I think could be decried as a threat to national sovereignty by one who would decry labor and environmental side agreements as such a threat.

Both the chapter 20 dispute resolution and the intellectual property provisions were put into place to protect property. The philosophy or value judgment was that environmental quality or labor rights, people, didn't get the same protection. That could have been addressed in part in the side agreements. The side agreements could have been tougher, but the dichotomy goes to the core of NAFTA. It is throughout.

Mr. PETERSON. They wouldn't be able to keep the wages down and therefore attract investment, isn't that the bottom line?

Mr. LEVINSON. That is the heart of the matter.

Mr. PETERSON. And then by changing copyright and patent laws, they can attract investment.

Mr. LEVINSON. It is also true in chapter 11, there is a chapter on investment. Mexico had to change its rules—Mexico had import content or local content requirements, percentage of exports. That is all prohibited in the investment chapter now. So Mexico changed a lot of things, all designed to make it more attractive for investment.

Ms. WALLACH. The Mexican constitution—I am not capable of speculating what the reason underlying it was, but I can tell you some more important examples. The Mexican constitution has been changed in several places to allow the sale of land. After the revolution, land was turned into a peasant-farmer system. They own the land but can't sell it. That is why there aren't hacienda farms all over Mexico. It has been tossed out for NAFTA. Intellectual property changes as well as the textual ones have been major changes in Mexican domestic law and now Canada is doing the same thing to make sure that their law would stick to these tough protections for intellectual properties. In the area of energy, the Mexican constitution has had to be dabbled with—I wouldn't call it a full change, but part of the language has been turned around to allow investment in the oil sector.

To me the bottom line answer is it is purely disingenuous for anyone who supports the core provisions of NAFTA to use sovereignty as the argument for why there should not be labor and environmental, strong labor and environmental provisions. You may have a philosophy if you are a proponent of NAFTA that thinks that is a bad idea, but sovereignty is not a legitimate argument considering what was done in the other provisions.

Mr. PETERSON. These big corporations, one of their major problems in these other countries is that they can't protect their copyright and patents in other countries. That is the big push in these

trade agreements and they are willing to trade anything away to protect that. We ran into that problem in GATT. That seems to be the primary moving force in any of these trade agreements, is that we protect the big multinational corporations' interests at whatever expense it seems like.

Mr. LEVINSON. Mr. Chairman, if I might, just anecdotally, from Jagdesh Bobwatti, who is a great proponent of this agreement, a professor at Columbia University. He recounted how Carla Hills at a dinner in Venezuela extolled the Mexican intellectual property agreement that had been arrived at as part of the NAFTA negotiations.

The Venezuelan President who was attending said the difference is that Mexico doesn't have the kind of independent parliament that we have. So Salinas could agree without the political constraints of other countries.

Mr. PETERSON. We will have Mr. Zeliff ask one question and then I think we are going—there are a lot more votes coming up so we will probably have to adjourn.

Mr. ZELIFF. Mr. Levinson, one quick question. I had several others.

Since 1986, do you feel that our trade with Mexico has done much for labor in this country?

Mr. LEVINSON. On balance, it is probably a net negative. What is happening as was said by previous witnesses is capital is going down to produce, to install plants, which are going to export back as an export platform.

Another thing I would like to refer to is your comment with respect to export growth over the past few years. This may turn out to be illusory in terms of projecting forward as the administration is doing, that growth was based upon an overvalued peso.

As we are now seeing, the Mexican economy is grinding to a halt. American exports are dropping like a rock because Mexico is running a \$23 billion current account deficit and Mexico, the Salinas government, is desperate not to devalue the peso against the dollar in anticipation of the forthcoming election; they are slowing the economy and thousands of workers are being thrown out of work in Mexico at this time. In order to correct the imbalance in this current account deficit, we are seeing in the first half of this year American exports dropping precipitously.

So to extrapolate from the past as to what is going to be the future can be very misleading.

Mr. ZELIFF. I hope that as we look to the future of a trade agreement that we look for the positive aspects of it as well as the negative end of it. I think that when we try to do a trade agreement to create an environment for organizing workers in Mexico, or when we try to force our social ideas on that country to have them equal to us, that we are barking up the wrong tree.

The last comment, in terms of prior to 1986, I don't think too many people in this country would want to invest in Mexico. The reason they want to invest now is that incentives have been made for them to do that in terms of return on investment. I think if we are going to look at a worldwide market, we have to start looking at things differently.

I respect your views, and I have listened and I have learned and I appreciate that, but somehow I think that the trade agreement has to be to promote trade and not just the social issues that we spent so much time on today.

Mr. LEVINSON. But this is a trade and investment—

Mr. ZELIFF. I understand.

Mr. PETERSON. With that, we appreciate everybody being here and the subcommittee is adjourned.

[Whereupon, at 4:15 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

# CAN THE LABOR SIDE AGREEMENT SAVE NAFTA?

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THURSDAY, OCTOBER 7, 1993

HOUSE OF REPRESENTATIVES,  
EMPLOYMENT, HOUSING, AND AVIATION SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:03 a.m., in room 2247, Rayburn House Office Building, Hon. Collin C. Peterson (chairman of the subcommittee) presiding.

Present: Representatives Collin C. Peterson, Floyd H. Flake, Karen L. Thurman, Barbara-Rose Collins, and Christopher Shays.

Also present: Representative William H. Zeliff, Jr.

Staff present: Edith Holleman, staff director; Andrea Nelson, counsel; June Saxton, clerk; and Jane O. Cobb, minority professional staff, Committee on Government Operations.

Mr. PETERSON. The subcommittee will be in order. We are going to today discuss the side agreements and how they came about. We thank Mr. Yerxa for being with us today. I appreciate your taking time out of your schedule to be with us.

Mr. YERXA. Thank you for inviting us, Mr. Chairman.

Mr. PETERSON. Last month, the U.S. Trade Representative presented the Nation with a signed labor side agreement to the North American Free Trade Agreement [NAFTA]. This agreement was lauded by NAFTA supporters as unprecedented in its scope of protection for workers.

Worker health and safety laws, minimum wage and child labor laws would be enforced under penalties of fines and sanctions in this side agreement.

What the side agreement left out, however, are the most fundamental rights of workers, the rights to assemble, to organize, and to collectively bargain for better wages and working conditions.

We know the U.S. negotiators started out with the goal of obtaining sanctions for violations of these rights. But as we read it, they came out with nothing in this area and one of the things we want to know in this meeting this morning is why that happened.

Without the guarantee of these rights, improvements in wages and living standards for Mexican workers remain completely in the hands of a one-party Mexican State. Through "el pacto," the Mexican Government controls wages and benefits for its citizens and it is the el pacto that guarantees low wages for United States companies moving jobs to Mexico. It is el pacto that gives Mexican workers wages with 60 percent of the buying power that they had in 1982.

When the European Community admitted Greece, Portugal, and Spain, all low wage countries, it required that they institute democratic reforms and allow independent labor movements before they could be fully integrated into the EC. But under NAFTA, the United States will give away access to its markets without making similar demands of Mexico, at least it appears to us that that is the situation.

Witnesses at our earlier hearings have raised critical issues about NAFTA and the labor side agreement. And we look for answers today from the U.S. Trade Representative about certain aspects of that previous testimony.

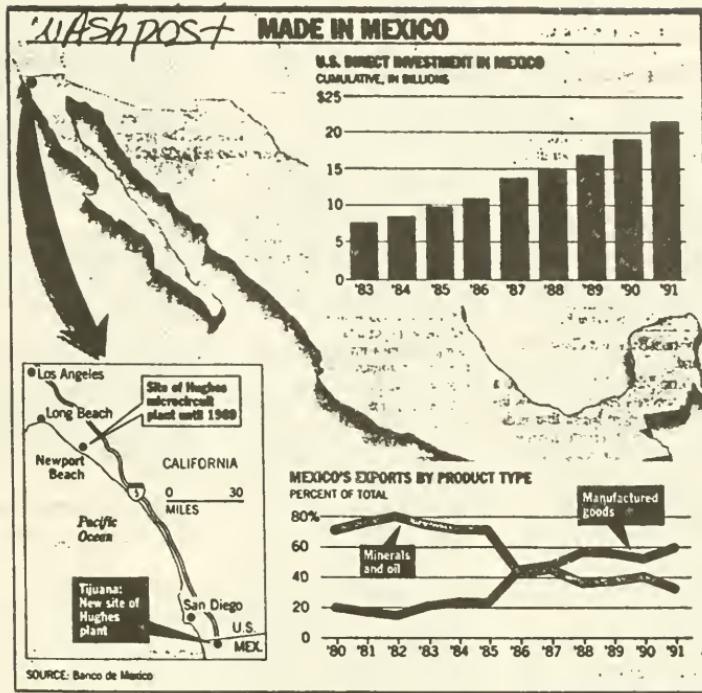
First, in job predictions we have heard from the economists that the econometric models used to project job losses and gains from trade are simply an academic exercise which should not be used to make predictions.

Why is that? Well, because the models assume full employment in Mexico and no movement of investment from the United States to Mexico because of the NAFTA. In other words, we question whether they deal with the real world. Nonetheless these speculative job gain numbers are repeated over and over and over again by administration officials as if repetition will make them real. So we would like to know why we keep hearing those numbers, but we don't hear many specifics about where these jobs actually are going to be.

Next, in the area of productivity, the administration's assurances that only the lower tech, lower paying jobs will go to Mexico we think is plain wrong. Harley Shaiken, one of the foremost experts on Mexican manufacturing productivity and its relationship to wages, testified before this committee about the high level of productivity in the new, world class manufacturing facilities that have been so far located in Mexico, and their very low level of wages in spite of the that productivity.

Just yesterday in the Washington Post, they told how Hughes Aircraft sent \$17 per hour jobs to Tijuana where they are paid about \$1 an hour for the same job.

[The article follows:]



BY JACKSON DYNAMAN—THE WASHINGTON POST

## A High-Tech, Low-Wage Lure

Hughes's Move to Mexico Illustrates a Thorny NAFTA Issue

By Tod Robberson  
Washington Post Foreign Service

**W**hen former Hughes Aircraft Co. project manager William Lewis was assigned the task in 1988 of defending a company decision to transfer high-technology U.S. defense work from Newport Beach, Calif., to a Hughes plant here in Mexico, he was suspicious.

"I had to live the lie," Lewis said in a telephone interview, referring to claims that jobs wouldn't be lost. "I knew that somewhere down the line, people would lose their jobs because of this."

What Lewis didn't anticipate was that his job would be among them.

He was one of several hundred laid-off Hughes employees who are confronting the harsh reality that their skilled jobs are just as vulnerable to competition from Mexico's low-cost labor force as are

the assembly line jobs of U.S. auto workers or other blue-collar employees. They are finding that not even government contract work, supported by taxpayer dollars, is immune to the lure of cost efficiency offered here in Mexico.

As Mexico joins the Clinton administration in the battle for U.S. congressional approval of the proposed North American Free Trade Agreement (NAFTA), it is finding that cheap labor and cost efficiency—two of this country's strongest economic selling points—are turning into political hand grenades in the NAFTA debate.

Labor groups and other critics say that the United States, having already lost thousands of manufacturing jobs to Mexico, would be foolish to ratify an accord that could encourage even more U.S. companies to move south.

Proponents argue that NAFTA will open up Mexico's market for the first time to a host of U.S. products and services, thus creating employment growth

in Mexico, as well as in the United States. They also argue that Mexico's low-cost labor force will be a major factor in the success of the agreement.

F4 TUESDAY, OCTOBER 6, 1993

CIAK POST

## Mexico Lures High-Tech Jobs

MEXICO, From PI

of the border. In addition, the agreement's defenders say the pact will help the United States to compete better against other world trading blocs, also stimulating U.S. employment.

Hughes's experience some of the economic pressures central to the debate over NAFTA.

Lewis and other former Hughes employees said that only a few years ago, the U.S. defense industry had seemed immune to the southbound trend of lower technology industries. The precision work performed by defense contractors was regarded as too sensitive to delegate to workers in a developing country such as Mexico.

But all that changed in April 1989. That's when the Air Force broke new ground by authorizing Hughes's missile systems group to transfer some production of microcircuits—for missiles, jet fighters and other defense-related products—to a *maquiladora* plant in Tijuana.

Maquiladora facilities are foreign-owned factories, based in Mexico, that make goods strictly for export. Hundreds of U.S. companies have used *maquiladoras* to lower their labor costs by shifting jobs south, and NAFTA's critics say the pact would open the door for more job losses.

"We recognize this move [to Tijuana] improves your competitiveness and ultimately benefits the government," wrote Air Force contracting officer Robert C. Smith in an April 1989 letter to Hughes.

Now, high-tech companies such as Hughes are finding that with proper training and supervision, Mexican workers are just as capable as their U.S. counterparts in manufacturing the complex microchips that go into aerospace and defense products. And the savings is significant in an industry where labor makes up 30 percent to 50 percent of production costs.

Ron E. Shaver, operations manager for Hughes's microelectronic circuits division, said the cost savings in Mexico are critical to Hughes's remaining competitive—and preserving some related jobs in the United States.

"Yes, we are taking work from the United States, but we wouldn't have the business at all if we didn't have the plant here," Shaver said. "If we can save five jobs [in the United States] by having this operation here, blending work [with U.S. plants] and holding onto a contract, then we're saving jobs. If we lose the contract, more jobs are lost."

The starting wage in Tijuana for fine operators—the people manning the microscopes and chip assembly lines—is 20 Mexican pesos per day, or about \$6.40, according to plant manager Jose L. Gaitan. A more highly trained technician has a starting wage of 35 pesos per day, or less than \$1.50 per hour. By comparison, a newly hired technician at the Newport Beach plant earns about \$17 per hour, a former Hughes technician said.

Inside dust-free production rooms here at Hughes's Circuitos Binacionales de Tijuana maquiladora, Mexicans from nearby dirt-poor neighborhoods don smocks and surgical masks each day to operate \$100,000 machines. They produce and test tiny microcircuits whose construction is so intricate that microscopes are required to examine wiring one-eighth the thickness of a human hair.

According to former Hughes employees and government documents, the finished microchips are sent back to the United States, where at least some are assembled inside weapons such as the Air Force's advanced medium-range air-to-air missile, or AMRAAM.

Until 1989, AMRAAM microcircuits were produced almost exclusively at Hughes's Newport Beach plant. But Hughes officials said that as federal defense spending dropped with the end of the Cold War, the company began seeking ways of cutting production costs to remain competitive.

"The government placed upon us the necessity to get into competitive bidding. [The move to Tijuana] was a sure-fire way of containing costs and maintaining competitiveness," Lewis said. A "direct cause and effect," he said, was that 300 to 400 employees were laid off in Newport Beach.

Hughes spokesman William Herrman said instead that layoffs at Newport Beach were part of an across-the-board "downsizing" plan, and even jobs at the Tijuana plant have been slashed from a 1988 high of 225 employees to the current level of 120 workers. Worldwide, Hughes has dropped from a high of 83,000 employees in the mid-1980s—when roughly 80 percent of its contracts were defense-related—to around 57,000 now.

Former Hughes employees, including some who support NAFTA, argued that the Air Force's acceptance of Hughes's move to Tijuana sent the wrong signal to defense contractors that U.S. jobs should be regarded as expendable.

"I don't begrudge the Mexicans who want to work," said Robert Dingman, a former Hughes technician who helped manage the expansion of the Tijuana plant. "But how can [Hughes and the government] justify using U.S. tax dollars to take away American jobs?"

Mr. PETERSON. So we want to know why the Trade Representative continues to claim that the United States wages are supported by our workers' higher productivity and just why we don't recognize what is going on in Mexico in this area.

Even with President Salinas' election year plan to tie wage increases to productivity, one Mexican congressman recently said it would take 40 to 50 years to reach one-half of United States wages.

We would like some comments on that, if we could.

In the area of workers' rights, we have also received testimony from Mexican workers about government repression of independent union movements and workers who attempt to organize for better working conditions and wages have been squashed. We have had testimony in this committee that they are fired, threatened. They are attacked by armed thugs and kidnapped, in some cases, and we even had testimony that one individual was killed.

They don't get the benefits that they are promised under the law, they testified, and we want to know why our government apparently thinks that this is not a problem and a threat to U.S. jobs.

Mickey Kantor recently wrote to a Member of Congress that the side agreement would allow us to expand our dialog with Mexico on worker rights. How will this dialog be carried out? Probably not by the workers.

Last week we had a hearing that a group of United States and Canadian machinists went down to Mexico and they testified before this subcommittee that they could not even discuss workers' rights with Mexican workers on their own time. They were detained for several hours in a holding area for alleged immigration violations.

The complaint system under the side agreement appears to be in our opinion a convoluted process to obtain sanctions for violations of technical labor standards. The ones that are covered in the side agreement are so complex that a high Mexican official told its Congress the side agreement could not be enforced. If that is true, why should the United States ratify NAFTA?

The U.S. Trade Representative did not provide a witness at our earlier hearing on the labor side agreement so that we could answer—get answers to some of these questions, so we look forward to delving into those today.

Again, we have Ambassador Yerxa, Deputy U.S. Trade Representative who is with us today. We appreciate that. And we will see if Mr. Zeliff has an opening statement.

Mr. ZELIFF. Thank you, Mr. Chairman.

I want to thank you for calling this hearing today to continue our examination of what will likely be one of the most important issues facing us this fall, the North American Free Trade Agreement.

So far we have heard a great deal of testimony concerning the problems with NAFTA. We have been told that we should reject this landmark trade accord because it will result in the wholesale flight of jobs and industry to Mexico.

We have been told to reject NAFTA because of Mexico's human rights record or because our health and safety standards will somehow be compromised. There are even those out there telling NAFTA will compromise our sovereignty.

All of these things we have been told will occur despite the fact that every economic study of NAFTA has concluded that increased

trade with Mexico will leverage economic growth and job creation for the United States.

We have heard all of the emotional arguments against NAFTA but as legislators, we owe it to ourselves and the people we represent to judge this issue on the facts, not on misinformation, but on facts and logical, well-grounded information that demonstrates that NAFTA will be good for this country.

Today finally, I think we will hear the plain truth. Deputy Ambassador Rufus Yerxa has done a superb job in negotiating a balanced trade accord and side agreements with Mexico and Canada.

I strongly urge my friends on this subcommittee to listen closely to his testimony, as I will and as I did on previous testimony as well on the other side of issue. I look forward to our trip this weekend to see firsthand some of the issues that we will be discussing today.

So, Mr. Chairman, thank you for bringing this very important issue to our attention.

Mr. PETERSON. Thank you, Mr. Zeliff. I hope that we do have a good trip and we learn something.

Mrs. Thurman, do you have an opening statement?

Mrs. THURMAN. I am going to submit mine for the record, Mr. Chairman, so we can get to the testimony.

Mr. PETERSON. Without objection, and any other members that have statements without objection will be included in the record as well.

[The prepared statement of Mrs. Thurman follows:]

**STATEMENT OF REP. KAREN THURMAN OF FLORIDA****Subcommittee on Employment, Housing, and Aviation****October 7, 1993**

Thank you, Mr. Chairman. For the past several months, this Subcommittee diligently has examined the effects that NAFTA will have on labor. I personally am deeply concerned about the loss of American jobs that will occur if NAFTA is approved.

I am concerned about the fieldhand in Florida's winter vegetable industry who will lose his job when more Mexican vegetables flood our markets.

I am concerned about the 55-year-old vegetable packer with a high school education who could not be trained for one of those new high-tech jobs being touted by NAFTA proponents.

I am concerned about the American data processor already facing stiff wage competition from legal temporary workers who receive less than the prevailing wage. This American worker faces a double whammy under NAFTA: on the one hand, pressure to accept lower wages at home or see her job shifted to Mexico, and on the other hand pressure to accept lower wages or lose her job to "temporary" laborers from Mexico admitted under Chapter 16.

I am concerned about every American worker whose employer sees this ad from the State of Yucatan extolling \$1 an hour employees and a saving of \$15,000 per employee. That worker will face continuing pressure to reduce his or her standard of living.

Finally, I am concerned about the Mexican worker who enjoys none of the human, political, and labor rights afforded to every American worker--union or non-union. This worker hardly can afford to purchase a pair of American-made blue jeans, let alone an American-made car.

Today we finally get to hear from a member of the Office of the US Trade Representative on these and related issues. Maybe Mr. Yerxa will address some of these concerns.

Mr. PETERSON. With that, we will turn right to the testimony of Mr.—Ambassador Yerxa.

It is the custom of the Government Operations Committee in our hearings which are investigative hearings to swear in all witnesses so that we don't discriminate against any of them.

Do you have any objection to being sworn in?

Mr. YERXA. Absolutely not.

[Witnesses sworn.]

Mr. PETERSON. Mr. Yerxa, Ambassador, your entire statement will be entered in the record, so feel free to summarize, or if you want to address some of the issues I raised. If not, we can discuss them during the question time, but again we want to thank you for coming.

**STATEMENT OF RUFUS YERXA, AMBASSADOR, DEPUTY U.S. TRADE REPRESENTATIVE, ACCCOMPANIED BY JENNIFER HAVERKAMP, DIRECTOR OF ENVIRONMENTAL POLICY, AND DAVID WALTERS, CHIEF ECONOMIST**

Mr. YERXA. Thank you, Mr. Chairman, and thank you for scheduling this important hearing.

I will not read my entire statement. You have it submitted for the record, and I will summarize some of my remarks there to try to focus on the issues that concern you and the subcommittee members in particular.

I would ask, first of all, if you give me just a few moments to briefly discuss the NAFTA itself and why President Clinton and his administration believe that NAFTA represents a good deal for the United States and represents the kind of economic strategy and trade policy which we will need to pursue in the future if we are to have a competitive economy with good jobs.

Then I would propose to discuss in particular the concerns you raised about the side agreement, which I was involved in this negotiating the labor side agreement. I have with me today Mr. David Walters, who is the chief economist for USTR and also Ms. Jennifer Haverkamp, who is a lawyer in our North American Affairs office and the two of them will assist me in answering your questions.

First, with respect to the general case for the NAFTA that the President believes must be made to the American people, let me say the following things: There is no question that we are in an extremely competitive world economy and one in which the globalization of industries and the globalization of competition are facts of life.

What we have to determine as a Nation is how we are going to compete with other countries, how we are going to create the kind of dynamic domestic economy that can assure us good jobs in the future, can assure us good competitive industries that will stay in the United States.

But we face the fact that our economy is no longer self contained and that we have to trade in the world. If you look at trends in U.S. economic growth over the last several years, exports have been an essential component of our trade growth and the purpose of trade negotiators is to find agreements which open markets to the United States.

Now, the debate about NAFTA is one essentially about whether this constitutes good economic policy, good job creation, and whether the benefits outweigh the costs.

Clearly, in any dynamic arrangement with other nations in the world, there are always going to be tradeoffs. The reason we believe NAFTA represents a good agreement for the United States goes down to one simple fact: The basic effect of this agreement is to open Mexico's economy to the United States.

In general, the U.S. economy is already very open. Our markets are open to other countries. Mexico's barriers to United States goods are about 2½ times as high as ours and in sector after sector we can point to the potential gains for United States exporters of accessing the Mexican market.

In essence, we are talking about something that takes what is currently an unlevel playing field and gives U.S. companies, U.S. workers, U.S. exporters, the opportunities they haven't had to get into that market.

Now, the first criticism that is made is the suggestion that we cannot compete with low wage countries, but the fact of the matter, Mr. Chairman, is that many of our largest trade surpluses are with low wage developing countries and many of our largest trade deficits are with high wage manufacturing countries such as Germany.

The United States has shown over and over again its ability to compete with low wage countries for one simple reason: We are an exceedingly productive economy with the highest average worker productivity in the world, and with an extremely diverse manufacturing sector that covers everything from telecommunications to textiles.

Now, if you look at the actual effects of this agreement as opposed to the rhetoric surrounding its political impact, if you look at the actual commercial effect, you will see in sector after sector a leveling of the playing field which is currently tilted against production in the United States. Whether you look at automobiles, or telecommunications, or agriculture, you see the same thing.

That is why we have experienced a tremendous explosion of our exports to Mexico just during the last 6 years when they began the liberalization process. They began to reduce their barriers to our goods, and we went from a \$5.5 billion deficit to a \$5.5 billion surplus in our trade with Mexico.

The fact of the matter is there are still numerous sectors where barriers are still high in Mexico where you look at automobiles, or agriculture, or high technology goods. This trade agreement changes that in a fundamental way and many of the criticisms that you are hearing, and, in fact, if I could point to some of the complaints that you referred to in your opening statement, Mr. Chairman, for example, the example of Hughes Aircraft, many of those things are occurring under the status quo.

The status quo is the problem. The status quo provides an enormous incentive for companies to locate in Mexico, assemble products in Mexico, and reexport them to the United States. That is the essence of the maquiladora program.

Why does it create that distorted unlevel playing field against American products? Because you can take goods to Mexico for assembly in the maquiladora plants, but you are required by law to

ship them back to the United States. You can sell automobiles in Mexico, but only if you export one automobile for each automobile you produce in Mexico.

You face in the auto sector domestic content restrictions which are very high in Mexico. You face import licensing requirements on everything from corn to beans. And the effect of this is to lead to a very unlevel playing field for U.S. producers.

Now, NAFTA changes that. And it changes it in a way which will be permanent, which will in many sectors lead to a significant immediate growth in exports. Take the automobile sector, for example. The big three auto producers have predicted in the first year of NAFTA alone we could increase exports to Mexico from its current level of 1,000 units to about 60,000 units. That is \$1 billion increase in exports to Mexico.

What they are tempted to do today is to move to Mexico because that is the only way they can sell in the Mexican market.

The next point I would like to make is to take on the myth that Mexico is not an important market for the United States. If you look at everything from processed food products, to telecommunications, to transportation equipment, to hospital goods, Mexico is one of the fastest growing markets in the world. It is now our third largest market for overall exports and our second largest market for manufactured goods.

The other concerns that have been raised are that this agreement does not solve the problems we find in Mexico with respect to environmental or labor enforcement, with respect to social policies, and with respect to political pluralism and democracy.

I think those arguments fail to recognize that the best way to advance these causes, the best way to advance these interests, is through an arrangement like NAFTA with the supplemental agreements. The President himself had significant misgivings about the NAFTA negotiated by his predecessor because he believed it needed to be buttressed by strong supplemental agreements in labor and environmental policy.

He negotiated—he instructed us to negotiate those agreements and we did, and let me talk for a moment about why I believe the agreements we came back with will lead to significant improvements in both labor and environmental policy in Mexico with NAFTA, and why a defeat of NAFTA would produce just the opposite effect, that is a deterioration in those policies and a continued reliance by Mexico on the kinds of policies they have today.

Historically, Mexico has been a closed, state-controlled economy. To shield its industry and agriculture, it created very, very high tariff protections. It also kept artificially low the wages of its workers and invested very little in environmental quality and environmental protection.

And when those policies began to change, and they have changed gradually under the Salinas administration, we have seen two things taking place. First of all, we have seen their economy open up to imports. And second we have seen an increasing emphasis on strengthening environmental protection and moving toward greater sensitivity toward labor standards, worker protection, worker safety, and worker health. This is for a very simple reason.

As a country becomes more advanced, industrialized, and open to the world, it cannot fend off the pressures that exist from its own citizenry for an improvement in its quality of life.

Now, what these supplemental agreements try to do is strengthen that process by fundamentally moving Mexico toward greater adherence to internationally recognized worker rights and greater enforcement of laws.

Now, the fact is that Mexico has some very good laws on the books but the problem in the past has been enforcement.

The supplement agreements, and let me talk first about the supplement agreement on labor is an extremely important, in fact, historic linkage of trade and labor issues. It recommends the first labor agreement negotiated to specifically accompany a trade agreement, the first attempt to match trade and investment rules with a more integrated framework for labor market policies, and the first attempt to manage the potential change in labor markets brought about by an accord between the United States and a trading partner.

It is developed around three fundamental principles. First, enhanced collaboration, cooperation, and information exchange among the three countries. Second, increased efforts to make explicit and highly visible each country's labor laws and their implementation. And third, the increased use of effective mechanisms to improve the national enforcement of national labor laws.

The agreement contains important obligations regarding citizens' access to justice. These include commitments to openness and transparency in the administration of laws and regulations. Commitments to provide public access to administrative and judicial remedies. And while recognizing the right of each country to establish their own labor standards, the three countries pledge to ensure that their laws and regulations provide for high labor standards and to work cooperatively in enhancing and improving those standards over time.

They commit to effective enforcement of these laws, a commitment backed up by a dispute settlement process. You know some of the details of the agreement, I am certain, Mr. Chairman. It creates a new commission on labor cooperation, composed of the labor officials of the three governments. The council would have a broad mandate to oversee the implementation of this agreement and to establish priorities for cooperative activities in everything from child labor, to minimum wages, to industrial relations.

Each country will establish its own national administrative organization or national administrative office that is a point of contact between its public and its—and the national government and the commission itself.

And these NAOs will be able to obtain complaints from our public about labor policies in Mexico and to bring them to the attention of the commission for resolution or, if necessary, dispute settlement.

Now, let me go to some of the specific points you raised because I think in your opening statement you acknowledged that we had made progress in obtaining significant advances in certain areas such as child labor, minimum wage, workplace health and safety,

but you were critical of the result we obtained with regard to industrial relations.

Let me be very specific about what this agreement does in the industrial relations field. First of all, industrial relations are included in the supplement agreement, that is issues such as freedom of association, the protection of the right to organize, the right to bargain collectively, and the right to strike.

They are subject to the general obligations of the agreement regarding the provision of high labor standards and their improvement. They are subject to the obligations regarding effective enforcement of national laws, private access to remedies, procedural guarantees, and transparency.

So there is no question but this agreement will provide a mechanism for exposing and putting sunshine on industrial relations problems in a way we do not have today with Mexico, and also providing a forum for airing those differences between the governments.

Moreover industrial relations in Mexico would be subject to review by our national administrative office, the NAO, and the ministerial council, so they are not off the table or out of the agreement. Now, it is true that Mexico's failure to enforce industrial relations laws are not within the category of issues which are subject to the evaluative comment of experts, process, or the fines and trades sanctions.

But that does not leave us without recourse to act against those policies. Section 301 of U.S. law will continue to apply and will continue in effect. Mexico is entering into a commitment to enforce its industrial relations laws which it has on the book, and we will be able to address internationally recognized workers' rights through the mechanisms of United States policy fully.

There is, of course, always room for criticism of this kind of an agreement. The fact of the matter is when the United States came to the table in these negotiations, we had significant concerns being expressed by Members of Congress about preserving U.S. sovereignty, about not subjecting our enforcement or our laws to an international commission, and about ensuring that we—that the Congress and the regulatory agencies in the United States maintained the necessary scope to conduct labor relations policy as well as enforcement of our labor laws.

We tried to address that concern through what I think is an extremely workable structure, one which is based on commitments to enforce your own national laws, but not a commitment to create a supernational harmonization of laws which could have worked to the disadvantage of United States.

I think there is no question, Mr. Chairman, but that under this agreement we have much, much more leverage over industrial relations matters, over labor policy, whether it is wages or workplace safety in Mexico than we presently have.

The problem is the status quo. It is the same problem that exists in our trade relationship with Mexico. The problem is the status quo.

And I would ask you and the members of the committee to look very carefully at the details of what this agreement does to fundamentally improve the status quo because after NAFTA is de-

cided, many of the concerns which you rightly point out will still exist and the question is going to be what mechanisms do we have, what procedures do we have, what arrangements do we have to address those concerns and to advance better labor protection in Mexico.

I am not trying at all, Mr. Chairman, to belittle the legitimate concerns that were raised to your subcommittee by representatives of organized labor, both in the United States and in Mexico. We are trying to find mechanisms to address those concerns as we move forward.

So on two counts, we think this is an exceedingly good agreement. First of all, it opens Mexico's market and it doesn't change much with respect to the United States market and second, it gives us the tools and devices we need to advance labor protection, to advance environmental protection as the North American free trade area evolves in the future.

I will stop there, Mr. Chairman. Obviously, there will be numerous opportunities for discussion and questions, and I thank you again for inviting us to testify today.

Mr. PETERSON. Thank you.

[The prepared statement of Mr. Yerxa follows:]

TESTIMONY OF AMBASSADOR RUFUS YERXA  
Deputy United States Trade Representative

before the House Government Operations Committee  
Employment, Housing and Aviation Subcommittee  
October 7, 1993

THE ADMINISTRATION'S CASE FOR NAFTA

Mr. Chairman, Members of the Subcommittee, I am pleased to appear before you today to set forth the Clinton Administration's case for the North American Free Trade Agreement (NAFTA), with the recently negotiated supplemental agreements.

This fall, members of the Administration have appeared before Committees in the House and the Senate and over the next few weeks, we will be participating in other hearings focusing on the NAFTA. We appreciate these opportunities to present the Administration's case on why the approval of NAFTA is central to our national interests.

The question we must ask ourselves as we consider the NAFTA is whether the United States will be significantly better off with the NAFTA and its side agreements than by rejecting them. We believe that the answer to that question is a clear and resounding yes.

The case for NAFTA comes down to two compelling points: NAFTA will increase economic growth and jobs in the United States, and NAFTA will help us resolve problems that trouble Americans in our current relationship with Mexico. Prominent among those problems are labor issues that I know are of particular interest to this committee.

There is a related point that is missed too often by the opponents of this agreement: rejecting the NAFTA and the supplemental agreements will not solve the problems that trouble us. The NAFTA will help us solve these problems in a way that benefits our country and our continent.

**NAFTA and Our Trading Goals**

Against a background of intense debate, a mountain of misinformation, and considerable hyperbole, it is important to remember that what NAFTA really does is some very simple things which Americans have long sought in our trading relationships. The NAFTA levels a playing field that is now tilted against us. Over time it will eliminate tariffs and non-tariff barriers among the United States, Mexico and Canada. Mexico and Canada will give our products preferential treatment compared to our competitors in Europe and in Asia and end the failed maquiladora programs. In

addition NAFTA and its side agreements will address long-neglected labor and environmental issues.

The NAFTA creates the world's largest market: 370 million people and \$6.5 trillion of production. That makes us stronger here at home, and better able to compete with Europe and Asia.

At the same time, NAFTA has strong rules to stop unfair treatment of American products and American investors. It requires Mexico to change laws that have forced our companies to move production to Mexico in order to sell their products in Mexico. It requires protection from piracy of our films, our books and our technology. The supplemental agreements will require stronger enforcement of laws protecting labor and the environment, and will help us work together with Canada and Mexico to improve deficient laws.

#### **NAFTA and the Administration's Economic Strategy**

The NAFTA package is a vital element of the President's overall economic strategy.

President Clinton and this Administration are committed to building the strongest, most competitive economy in the world. By doing so, we will expand job opportunities for United States workers and for their children who will be entering the work force.

We are finally facing the fact that our economy, as well as the global economy, is changing. Technology has revolutionized the world. Our economy is no longer self-contained, and the U.S. economy no longer dominates the world's economy. We compete in a global economy, where capital and technology are mobile. These trends are here to stay. The question is not whether we adapt to them, but how.

Our economic strategy -- health care reform, reducing the deficit, increasing public and private investment, reinventing government, welfare reform, changes in education, worker training, investing in technology -- all work in pursuit of the same objective: to build a more secure productive and competitive economy.

Our trade policy, including NAFTA, is an essential part of that strategy. The companies, farmers and workers of the United States are world-class competitors. We lead the world in everything from airplanes and computers, to wheat and soybeans. We have regained our position as the world's leading exporter. Last year U.S. trade in goods and services exceeded one trillion dollars.

Opening up new markets is the key to new job creation and economic growth. NAFTA presents an opportunity to compete and win

in a vast new market: 90 million people in Mexico, in a fast growing area, hungry for U.S. goods. It is also a step to an even larger market -- 400 million people throughout Central and South America and the Caribbean.

The United States seeks to open markets everywhere. We seek to trade and to compete worldwide. We have nearly \$200 billion each year in two-way trade with the countries of the European Community; through APEC, we seek expanded trade with the rapidly growing nations of Asia. Japan is a major market for U.S. products, despite the major and persistent barriers that we are committed to breaking down. Completing the Uruguay Round -- taking down tariff and non-tariff barriers worldwide, and writing new rules for the international trading system -- remains a top priority for us.

But it is no accident that Canada is our number one trading partner, despite having a population of only 27 million, and Mexico has become our third leading trading partner, despite its historic policy of maintaining a closed economy. Shared borders and geographical proximity do matter, even in this globalized economy.

And we have a natural advantage, and a great opportunity, to expand trade and investment with Mexico, and then with the rest of Central and Latin America and the Caribbean. Many of those countries have chosen, in recent years, to cast off the controls on their economies and the shackles on their political systems. They took these steps at the urging of the United States.

Tariffs have fallen and non-tariff barriers have been reduced. Since 1989, U.S. exports to Latin America and the Caribbean increased over 50 percent and are growing at over twice the rate of U.S. exports to the rest of the world, making this region our second fastest growing market. They have become a growing market for U.S. products; 43% of Latin American imports come from the United States.

Chile, Venezuela, Argentina and many other nations are intently following the NAFTA debate. The possibility of NAFTA accession provides an incentive for further trade and investment liberalization in the region. The decision to reject NAFTA would have profound negative economic and political consequences throughout the hemisphere and for the prospects for the expansion of trade in the global trading system.

The NAFTA is an instrument for helping the United States, Mexico and Canada cooperate in meeting Asian and European competition. It will help us produce more globally competitive products.

In the new global economy, there are challenges and risks, as well as great opportunities. I am confident that American workers

are up to the challenge of competing -- and will reap the benefits. One reason I am so confident is that we are not going into NAFTA blindly. We do not have to speculate about the results from this change; we have gone through a six year trial run.

#### Job Growth and Trade with Mexico

Mexico, recognizing that its economic policies had been disastrous, has begun to lower trade and investment barriers. The results have been dramatic for the United States:

- From 1987 to 1992, we transformed a \$5.7 billion trade deficit with Mexico into a \$5.4 billion trade surplus.
- U.S. exports to Mexico increased from \$12.4 billion in 1986 to \$40.6 billion in 1992, with increases coming across the board from computers to agriculture.
- Mexico has become our third leading export market, and our second leading market for manufactured exports (\$34.5 billion) and our third largest market for agricultural products (\$3.7 billion).
- 84% of this growth in exports has been exports for Mexican consumption.
- 400,000 U.S. jobs related to exports to Mexico were created.
- 70% of all dollars spent by Mexicans on imports are spent on U.S. products.

The success of the past seven years has occurred even though Mexican trade barriers remain far higher than ours. Bringing down the remaining barriers, which is what NAFTA does, ensures continued growth of U.S. exports to Mexico, which have been such a bright spot in our economic picture for the past seven years.

Virtually every responsible study that has looked at the labor issue concludes that NAFTA will produce a net gain in jobs or an increase in real wages in the United States. The Administration believes that with NAFTA, an additional 200,000 jobs related to exports will be created in the U.S. by 1995. While the studies acknowledge that there will be some jobs lost in certain sectors, overall, job gains will significantly exceed job losses. The studies also agree that the jobs lost will be a relatively small. This is true because Mexico's economy is only one-twentieth the size of ours, and our tariff and non-tariff barriers are already low. Mexico's productive assets, capacity and infrastructure are far below levels and standards in the United States or even Canada.

**NAFTA and Our Current Trade Problems**

Ironically, most of the concerns you hear in America about NAFTA are in reality problems that exist right now -- problems that the NAFTA will address. For example, in the trade area, despite Mexico's recent liberalization and despite the enormous gains we have enjoyed in our bilateral trade in recent years, the playing field is still tilted against us. NAFTA will level the playing field for U.S. workers.

For one, it will eliminate Mexican performance requirements and other unfair rules in the auto sector -- requirements that imports of vehicles into Mexico must be off-set two-to-one by exports of Mexican-made cars. It will eliminate the requirement for Mexican importers to secure a government permit each time they want to buy U.S. strawberries. Mexico has the right under the GATT to raise its tariffs up to 50%. If it chooses to do so, U.S. exports would not be affected because of the protections we gain under NAFTA.

Historically, Mexico has been a closed, state-controlled economy. To shield its industry and agriculture from competition, it relied on tariffs as high as 100% and a full range of non-tariff barriers, including domestic content requirements, restrictions on investment, performance requirements to keep out exports, and import licensing requirements which allowed the central government to dictate the levels of Mexico's agricultural imports. As a result, protected from competition from imports, Mexican producers were inefficient, and the Mexican economy was characterized by widespread poverty. Mexico's protectionist regime did not serve the interests of Mexico's people.

Perhaps the closed Mexican economy reflected the historical Mexican mistrust of, and antagonism toward, the United States. For whatever reason, Mexico remained largely closed to U.S. business until U.S. and Mexican law combined to produce the maquiladora program. But this program hardly resulted in an open Mexican market.

The maquiladora program created trade preferences and incentives for companies to locate assembly plants in Mexico to produce for the U.S. market. It gave products assembled in Mexico these preferences while at the same time maintaining all of Mexico's trade and investment barriers. The program thus created an artificial "export platform" in Mexico, with products assembled in maquiladora plants being required to be exported to the U.S. By 1992, there were over 2,000 maquiladora factories operating in Mexico, the overwhelming number of which were established by U.S. and Mexican corporations, employing more than 400,000 Mexican workers.

In addition, Mexico's high import barriers and Mexican rules requiring firms selling in the Mexican market to open factories in Mexico have made it difficult if not impossible for many of our companies to sell products made in the U.S. in Mexico. Non-tariff barriers -- licensing, citizenship requirements, and a host of other regulations were especially hard on small businesses in the U.S., which do not have the resources to navigate through the bureaucratic maze in Mexico.

The NAFTA will transform the situation by opening Mexico's market and eliminating the distortions created by the maquiladora program. Under NAFTA, the maquiladora program is effectively eliminated, along with import protections, and existing factories will be permitted to sell in the Mexican market without restriction.

Much of the opposition to NAFTA reflects justifiable concern about the policies of the past that have disadvantaged U.S. workers. Despite Mexican progress in voluntarily opening markets, Mexican tariffs remain, on the average, 2.5 times higher than ours. By contrast, over 50% of our imports from Mexico already enter duty-free. Our average tariff on imports is only 4%.

Mexico currently has no obligation to continue recent market-opening moves on which thousands of U.S. jobs already depend. NAFTA locks in current access and expands on it.

NAFTA will require relatively few changes on our part -- while requiring Mexico to sweep away decades of protectionism and overregulation. NAFTA will eliminate especially burdensome tariffs and non-tariff barriers in a number of key sectors where the U.S. is competitive vis-a-vis Mexico, such as autos and agriculture.

NAFTA lets U.S. workers compete on a level playing field with fair rules. And we are confident, in those circumstances, U.S. workers will succeed.

NAFTA will give U.S. exporters a significant preference in the rapidly expanding Mexican market over Japanese, European, and other foreign suppliers. As I have already noted, Mexico's tariffs average 10 percent. Countries other than the United States (and Canada) will continue to face Mexican duties. In addition, Mexico's current import licensing requirements on agricultural imports will disappear for the United States (and for Canada, for most products) when the NAFTA goes into effect. However, a license may still be required to bring in covered products from all other countries.

#### Major Features of NAFTA

Reduction of Mexican Tariffs: Under NAFTA, half of all U.S. exports to Mexico become eligible for zero Mexican tariffs when

NAFTA takes effect on January 1, 1994. Those exports which will be tariff-free include some of our most competitive products, such as semiconductors and computers, machine tools, aerospace equipment, telecommunications equipment, electronic equipment, and medical devices. Within the first five years after NAFTA's implementation, two-thirds of U.S. industrial exports will enter Mexico duty-free. That makes U.S. products more competitive than those of our rivals.

Removing Mexican non-tariff barriers. NAFTA reduces or eliminates numerous Mexican non-tariff barriers which today require U.S. companies to invest in Mexico or manufacture in Mexico in order to supply the Mexican market. For example, NAFTA will eliminate the requirements that force U.S. companies to purchase Mexican goods instead of U.S.-made equipment and components. Moreover, NAFTA abolishes the requirements that force our companies to export their production, usually to the United States, instead of selling directly into the Mexican market. Requirements that make U.S. companies produce in Mexico in order to sell there will also be phased out.

In addition, NAFTA includes important benefits for other key U.S. sectors:

Opening up Trade in Services. NAFTA will open new markets for the delivery of U.S. services to Mexico and Canada, where service companies are already large and growing. NAFTA will allow U.S. service firms to provide their services directly from the United States on a non-discriminatory basis, with any exceptions clearly spelled out. Furthermore, U.S. service companies will benefit from the right to establish, if they so choose, in Mexico or Canada. NAFTA opens the Mexican market to U.S. bus and trucking firms, financial service providers, and insurance and enhanced telecommunications companies, among others.

Protecting U.S. copyrights, patents and trademarks. NAFTA will ensure a high level of protection under Mexican law for U.S. owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs, including strong safeguards for computer programs, pharmaceutical inventions and sound recordings. NAFTA obligates both Mexico and Canada to enforce intellectual property rights against infringement, both internally and at the border. By enhancing protection of U.S. owners of technology, and of book, film and recording rights, NAFTA will increase trade and diminish losses from counterfeiting and piracy.

U.S. motion pictures, music and sound recordings, software, book publishing and other creative industries lead the world, and are crucial to the high-wage economy that we intend to build. The copyright industries are one of the largest and fastest growing segments of the U.S. economy, employing 5% of the U.S. work force, with exports, valued conservatively, of about \$34 billion in 1990.

The Benefit to Small Business. I have noted the statements of several sectors citing the benefits which will result from NAFTA; that sentiment is widely held in the business community, by businesses large and small. Indeed, small businesses stand to be among the major beneficiaries of NAFTA. Small businesses are often less able to invest the time and resources to wrestle with the tariff and licensing requirements which presently block the way to the Mexican market. With tariffs reduced or eliminated, and non-tariff barriers coming down, U.S. small business, which makes up a growing share of U.S. exports, will be able to sell their American-made products into the Mexican market.

#### Supplemental Agreements on Labor, the Environment, and Import Surges

President Clinton endorsed the NAFTA last October during the campaign in a speech at North Carolina State University, but he also said that NAFTA needed to be strengthened with side agreements on environment, labor and import surges. The agreements, signed by President Clinton on September 14, carry out that pledge. I will focus my remarks on the labor side agreements, as you requested.

##### The Supplemental Agreement on Labor

I welcome the opportunity today to focus particular attention on the NAFTA side agreement on labor, because the provisions of this agreement constitute a truly historic linkage of trade and labor issues. This represents the first labor agreement negotiated specifically to accompany a trade agreement -- the first attempt to match trade and investment rules with a more integrated framework for labor market policies -- the first attempt to manage the terms of the potential change in labor markets brought about by an accord between the United States and a trading partner. This agreement will benefit workers throughout North America and help ensure that businesses do not leave this country to take advantage of cheap labor and poorly enforced labor laws.

The North American Agreement on Labor Cooperation was developed around three fundamental principles: First, enhanced collaboration, cooperation, and information exchange among the three countries. Second, increased efforts to make explicit and highly visible each country's labor laws and their implementation. Third, increased use of effective mechanisms to improve the national enforcement of national labor laws.

The agreement contains important obligations regarding citizens' access to justice. These include commitments to openness and transparency in the administration of laws and regulations and the legal processes for resolving disputes, and commitments to provide appropriate public access to administrative and judicial processes for the redress of harms and for labor law enforcement.

Each country is also obligated to promote public awareness and understanding of its labor laws.

While recognizing their rights to establish their own labor standards as they deem appropriate, the three countries pledge to ensure that their laws and regulations provide for high labor standards and to work cooperatively in enhancing and improving those standards. They commit to effective enforcement of those laws, a commitment backed up by a dispute settlement process.

The Agreement creates a new Commission on Labor Cooperation. The three countries' top labor officials (the Secretary of Labor for the United States) will comprise the Commission's governing Council. The Council will have a broad mandate to oversee the implementation of the agreement, establish priorities for cooperative activities on labor issues, including occupational safety and health, child labor, benefits for workers, minimum wages, industrial relations, legislation on union formation, and labor dispute resolution. It will also facilitate country to country consultations.

A Secretariat will provide technical support to the Council, and will itself report periodically to the Council on a wide range of labor issues, including labor laws and their enforcement, labor market conditions such as average wages and labor productivity, and training and adjustment programs in the three countries. The Secretariat will be headed by an Executive Director appointed by consensus of the parties for a fixed term, and the Executive Director will appoint the staff.

Each country will also establish a National Administrative Office (NAO) that will be a point of contact between other Commission entities and national governments. Each NAO will consult with the other NAOs to seek and exchange information on labor matters. Each country has a right to determine how its own NAO is staffed, and its powers and functions. The NAOs will serve as the vehicle for the citizens of each country to question and comment upon the full range of labor practices in the territories of the other parties by making submissions to their respective NAOs.

The agreement has a broad, inclusive scope. Any labor issue may be the subject of cooperative programs among the governments and addressed through Secretariat studies and background reports. Any labor concern or obligation of the agreement, including those brought to light through the public submission process and the NAO's information-gathering activities, may be the subject of consultations between Parties, among NAOs and, as necessary, among Ministers. Special attention is given to matters involving non-enforcement of a nation's labor law when consultations fail to resolve the matter.

At the request of any Party, an Evaluation Committee of Experts (ECE) will be convened to examine many problems concerning the enforcement of labor laws. ECEs, composed of independent experts, will report and make recommendations on each matter as it is treated in each of the three countries.

In the event that one Party considers that another Party has persistently failed to effectively enforce its worker health and safety, child labor, or minimum wage laws (affecting a sector involving traded goods or services), the matter may be referred to a dispute settlement panel. The dispute settlement process provides, in the end, for sanctions if countries have failed to correct problems of nonenforcement. Such sanctions include monetary enforcement assessments of up to \$20 million (and higher over time, since the maximum penalty is indexed to trade between the Parties) and, as a last resort if a country fails to pay the penalty, trade sanctions in the form of the withdrawal of appropriate NAFTA benefits. (Where the complained against Party is Canada, the panel's monetary enforcement assessment will be enforceable as a judgment in Canadian courts rather than through trade sanctions.)

In short, the mechanisms I've described will allow us to enjoy the fruits of the NAFTA accord and at the same time allow us to protect the basic rights of workers. Moreover, they do this in the appropriate way: by encouraging voluntary improvement in standards and enforcement, and resorting to sanctions only as a last resort. But make no mistake, both the threat of sanctions and the sanctions themselves, once imposed, will produce compliance with the terms of the agreement.

#### Worker Adjustment and Retraining

Although virtually every study shows NAFTA will produce a net gain in employment in the United States, there will be some workers who lose their jobs as a result of NAFTA. The Administration is fully committed to a new comprehensive, worker adjustment program that will seek to ensure that no job loser will face unaided the challenge of adapting to economic change, whatever its cause.

The program will make available and provide funding for a wide range of effective re-employment services to all dislocated workers, whether the cause of dislocation is defense downsizing, technology, trade, or any other source of economic turbulence. The re-employment services to be offered include job search assistance, quality training, and income support. The Administration will soon announce its proposal to authorize this new comprehensive program.

### Foreign Policy Implications

The NAFTA deserves to be approved on its economic merits. However, the foreign policy implications of this issue should also not be minimized. Echoing comments made by Secretary of State Warren Christopher recently: "Rejection of NAFTA would seriously damage our relations with Mexico and erode our credibility with the other nations of the hemisphere and around the world. For the United States, failure to approve NAFTA would be a self-inflicted setback of historic proportions."

In my view a Congressional rejection of NAFTA would be a "shot heard around the world". It would be read across the globe as a seachange, marking a U.S. retreat from our traditionally strong advocacy for open markets and expanded trade. It would undermine our position as a negotiating partner on global trade agreements, like the Uruguay Round, which are vital to the economic renewal of the United States.

NAFTA is good economic policy and good foreign policy.

### Conclusion

All Americans agree that we cannot respond to the challenge of a changing world by drifting, content to accept the result of other nations' trade and economic strategies. We need our own strategy, which builds on our strengths, faces our weaknesses, and responds to the challenges and realities around us.

We would ask the opponents of NAFTA: does walking away from the NAFTA seem like good trade and economic strategy? Can you envision Japan or the EEC -- if they were in our position -- rejecting a deal like this? Would either of them kick sand in the face of their third biggest, and fastest growing, trading partner? Would they opt for the status quo, the unbalanced relationship, where Mexico keeps the tariff and non-tariff barriers it chooses to keep?

Would they ever be willing, in one unthinking lurch, to throw away the friendship and progress that have characterized the past seven years, dramatically reversing the historic pattern of mistrust and antagonism? Would they conceivably believe that it would be easier, somehow, to cooperate with Mexico on workers' rights, the environment, controlling drug traffic, or illegal immigration, if NAFTA were defeated?

This Administration did not negotiate the NAFTA. Moreover, Bill Clinton as a presidential candidate was sharply critical of the economic and trade policy of his predecessors. When confronted with the need to make a decision on NAFTA, he approached it very skeptically. There were powerful political reasons for opposing it.

But when he studied it, he found that NAFTA -- particularly if strengthened by supplemental agreements -- would be strongly in the economic interest of the United States. It was not a favor that we were doing for Mexico. It would benefit both countries, and Canada as well. It would not solve all our nation's economic problems, but it would be an important piece of the economic strategy that we were putting in place to build the world's most productive and competitive economy.

The Administration has the responsibility of convincing Congress and the country that NAFTA is in the national economic interest, and we intend to do so. I am confident that by the time Congress votes on NAFTA later this year, the country will recognize that NAFTA is a vital part of the solution to the economic challenges that face us.

Mr. PETERSON. I welcome Congresswoman Collins.

Do you have any statement?

Ms. COLLINS. I have a statement for the record.

Mr. PETERSON. It will be included without objection.

Ms. COLLINS. Thank you.

[The prepared statement of Ms. Collins follows:]

Statement of the Honorable Barbara-Rose Collins (D-MI)  
Employment, Housing, and Aviation Subcommittee  
Hearing on Labor Issues in NAFTA, 10-7-93

THANK YOU MR. CHAIRMAN, AND THANK YOU FOR HOLDING THIS MORNING'S HEARING ON LABOR ISSUES IN NAFTA. I BELIEVE THE WORK THIS COMMITTEE WILL DO HERE TODAY WILL LAY MUCH OF THE FRAMEWORK FOR HOUSE PASSAGE OR DEFEAT OF NAFTA.

WITH YOUR LEADERSHIP, MR. CHAIRMAN, THE HEARINGS THIS COMMITTEE HAS HELD HAVE ILLUMINATED MANY OF THE GREAT SHORTCOMINGS OF THE ORIGINAL NAFTA TEXT. I AM ESPECIALLY PLEASED THAT TODAY WE ARE FOCUSING ON LABOR ASPECTS, PARTICULARLY THE SIDE AGREEMENT. HOW THIS AGREEMENT AFFECTS AMERICAN WORKERS AND JOBS MUST BE A PRIORITY CONSIDERATION FOR THIS CONGRESS. IN MY VIEW, THE LABOR AGREEMENT DOES LITTLE TO MAKE THE NAFTA AGREEMENT PALATABLE, AND FURTHER HIGHLIGHTS A VERY FLAWED NEGOTIATING PROCESS.

IN ITS RUSH TO OPEN MEXICAN MARKETS TO U.S. INVESTMENT, THE BUSH ADMINISTRATION FAILED TO DEFEND AMERICAN INTERESTS AND I BELIEVE GUARANTEED AMERICAN LOSSES IN JOBS, INDUSTRIAL COMPETITIVENESS AND THE AMERICAN STANDARD OF LIVING.

OF PARTICULAR INTEREST TO ME ARE THE AUTO PROVISIONS OF THIS AGREEMENT, WHICH FAIL TO ACHIEVE EQUITY AMONG THE THREE NAFTA COUNTRIES, LEAVE THE U.S. AS THE ONLY PARTY WITH NO GOVERNMENTAL PROGRAM PROMOTING LOCAL PRODUCTION FOR ITS AUTO INDUSTRY, AND ULTIMATELY WILL CONTRIBUTE TO A DECLINE IN THE U.S. INDUSTRY'S SHARE OF NORTH AMERICAN PRODUCTION. THE SHORT SIGHTEDNESS OF THIS ONE SECTION OF THE AGREEMENT UNDERSCORES MY PROBLEM WITH THIS NAFTA AS A WHOLE. IT IS NOT GOOD TRADE POLICY, AND IT BETRAYS A TRUST BETWEEN GOVERNMENT AND THE PEOPLE IT SERVES.

THROUGH THIS COMMITTEE, THE LACK OF WORKERS'

RIGHTS IN MEXICO HAS BEEN HIGHLIGHTED. THE CONCEPT OF WORKERS RIGHTS SHOULD HAVE BEEN CENTRAL TO ANY NEGOTIATION ON A LABOR SIDE ACCORD, BUT WAS NOT. GIVEN MEXICO'S DISREGARD FOR WORKERS RIGHTS AND SEEMING DISREGARD FOR HUMAN DIGNITY THROUGHOUT THE MAQUILA CENTERS, THE U.S. MUST INSIST UPON COMPLIANCE WITH INTERNATIONAL LAW. TO NOT DO THIS, GIVEN OUR HISTORY OF SETTING CONDITIONS IN OTHER TRADE AGREEMENTS, IS IRRESPONSIBLE.

ON MONDAY OF THIS WEEK, THE CENSUS BUREAU REPORTED THAT THE NUMBER OF POOR AMERICANS ROSE FOR THE THIRD STRAIGHT YEAR, REPRESENTING THE LARGEST POOL OF POOR PEOPLE SINCE 1962. THE BUREAU FURTHER REPORTED THAT INCOMES HAVE REMAINED STAGNANT. IN THE FACE OF STATISTICS LIKE THESE, AND AS WE AGAIN PREPARE TO EXTEND UNEMPLOYMENT BENEFITS, HOW CAN WE ADVOCATE A POLICY THAT FAILS TO PROTECT JOBS IN THE MIDST OF A JOBLESS RECOVERY?

LET ME MAKE ONE POINT CLEAR. I STRONGLY SUPPORT PRESIDENT CLINTON AND MOST OF HIS POLICIES. THIS BUSH NAFTA, HOWEVER, IS TOTALLY CONTRARY TO "PUTTING PEOPLE FIRST."

AMBASSADOR YERXA, I THANK YOU FOR YOUR TIME AND TESTIMONY. I LOOK FORWARD TO OUR DISCUSSION. THANK YOU MR. CHAIRMAN.

Mr. PETERSON. Thank you for being here.

I have a couple of questions I will ask and then I will let other members ask questions.

I have got a long list here but just, first of all, if this is such a—if these agreements, side agreements were so good, why did you end up losing support for the agreement rather than gaining support after they were announced, do you suppose?

Why do you suppose that happened? Because I can't think of anybody that was on the fence, and I have been watching this very closely and tracking votes for a long time, and you lost votes, not gained votes when these agreements came out.

So if they are such a great improvement, why didn't anybody—I mean, why do we have this result?

Mr. YERXA. Mr. Chairman, I am not the vote counter in the administration.

Mr. PETERSON. That must give some indication of what people think is in these agreements.

Mr. YERXA. I am the negotiator and perhaps it does. I know there are vote counters in the administration who would disagree with your assessment. We have had—

Mr. PETERSON. You better get some different vote counters then.

Mr. YERXA. There are a number of Members who indicated their support for NAFTA in recent weeks and obviously this is the period in which undecided Members are going to make up their mind one way or another.

I am not trying to suggest that this agreement is going to convince every single Member who is undecided to support this agreement. I am not here to decide what your position should be. I am here to decide what the administration's position would be.

Mr. PETERSON. I just think it is curious what happened. One of my concerns, and you know you mentioned that we are going to have leverage if we passed NAFTA. I agree with you that the status quo is probably the worst solution. We need to have an agreement with Mexico.

I guess my problem is that I think we have tremendous leverage in opening up this situation and so that they can get more investment, and I think Mexico wins much more than we do, and the problem I have is that I don't think we use the leverage that we have to change the conditions in Mexico, and I think we are missing a real opportunity and I just don't believe that this agreement is going to change anything.

That is the problem that I have with it. And I would like to see us go back and use that leverage so that we can improve the conditions of people in Mexico so we can raise their standard of living so they can buy something from us.

You talked about the exports at some length, about how we have improved the situation with exports, you know, and then you went on to criticize the maquiladora situation, which I will agree with you on that. I think that is kind of a dumb policy, but in coming up with these exports numbers, you folks are using the maquiladora situation both ways.

I mean we have U-turn exports and you are counting them both ways, and you admit it. Congressman Hunter has a letter from Ambassador Kantor saying that you in fact are counting these both

ways, and so why are you using—if you think the maquiladora is such a bad thing, why are you using those numbers to say that this is a good agreement?

Mr. YERXA. I am going to ask my economist to comment, but let me point out one thing because I have been through the numbers several times with several Members of Congress and with the economists in the government.

Yes, you are right, we did answer that way to Congressman Hunter because the important point here is in calculating our trade with Mexico today, we fully took into account the goods, the components returning to the United States in calculating the trade balance figures.

Even taking those figures into account, we still show what has been a remarkable shift from a substantial trade deficit of about \$5.57 billion to a trade surplus of \$5.4 billion. Now, that fully takes into account the goods coming back.

Mr. PETERSON. But—

Mr. YERXA. Moreover, Mr. Chairman, if I could, what the figures actually show is a significant decline in components for reexport to the United States as a share of our exports to Mexico.

What is happening is as Mexico brings down its high barriers on goods being consumed in Mexico, it comes as no surprise to anyone that that is leading to a tremendous increase in exports of goods for consumption in Mexico, 85 percent of the growth in our recent trade has been goods for consumption in Mexico.

Mr. PETERSON. How do you define that?

Mr. YERXA. I am sorry?

Mr. PETERSON. How do you define that?

Mr. YERXA. Goods that are not being reexported to the United States.

Mr. PETERSON. Isn't it true that a majority of those are capital goods.

Mr. YERXA. No, actually capital goods—by the way, when we talk about capital goods, you should know that capital goods include a lot of products that I think many members of your committee would fully agree are an essential part of a strong economy.

They are consumed regularly by our industries as they replenish their equipment. They include such things as truck engines and break linings for transportation equipment. They include things that are consumed.

Mr. PETERSON. So that truckers can come into this country from Mexico and don't have to comply with our laws.

Mr. YERXA. That is another—that is another inaccurate point that has been made by critics. I can get to that in a minute because under the agreement, they are required to fully comply with our laws.

But getting to the capital goods question for a moment, then I will ask Mr. Walters to comment, capital goods are actually a smaller percentage of our exports to Mexico than they are a percentage of our exports to Japan and Europe.

We are a very, very competitive capital goods producer because those are many of our most competitive high-technology industries, whether you are talking about telecommunications switching

equipment or whether you are talking about airplanes or other such products.

So I don't think we ought to quickly dismiss capital goods exports, but the important point—

Mr. PETERSON. No I am not. My concern is we are sending those capital goods down there and increasing their ability to be productive and giving them a competitive advantage over us.

I mean there is no way that we can compete when they are as competitive as we are, and their wages are one-seventh to one-tenth of what ours are, and they have the latest high-tech equipment and know how to run it, it ain't going to work. That is the problem.

Mr. YERXA. Let me ask Mr. Walters to testify. I understand your point.

The problem is that virtually every credible economic study that has been done comes to a different conclusion.

Mr. PETERSON. Mr. Shaiken doesn't come to that conclusion. He was doing this work before anybody ever heard of NAFTA, you know, and—

Mr. YERXA. He is a political economist, but—

Mr. PETERSON. What do you mean a political economist?

Mr. YERXA. Well, that is his training.

Mr. PETERSON. What is a political economist?

Mr. YERXA. I will have my economist explain.

Mr. WALTERS. Just a word about what Mr. Shaiken was looking at. Mr. Shaiken was looking at a few specific examples of particular factories. It is very difficult to generalize off of specific examples.

I mean, you, for example, could look at the OTA study which looked carefully at the auto industry assembling of automobiles in the United States and assembling automobiles in Mexico, and the price competitiveness of the two industries.

Now, indeed the OTA study did find the Mexicans did have a huge advantage in Mexico. The total wage in Mexico was \$150 to assemble a car, and in the United States it is \$700, so there is a tremendous advantage to Mexico on the wage, yet it was several hundred dollars cheaper to deliver a car in the United States from Detroit than it was in Mexico.

Mr. PETERSON. You mean total the wages on a car is \$700?

Mr. WALTERS. Yes.

Mr. PETERSON. That is not true.

Mr. WALTERS. On the assembler.

Mr. PETERSON. That is right. This whole thing of figures lie and liars figure. If you want to say that economists are political, I think all of you folks are political, and you come at it from your own point of view.

Mr. YERXA. As long as you acknowledge Mr. Shaiken is political, too, I will accept that.

Mr. PETERSON. Everybody has their own point of view on this.

Mr. WALTERS. I am only citing OTA. I am not trying to interpret. The reason the costs for delivering the car from Detroit than from Mexico is lower is because the assembler is only producing about 25 percent of the value of the car and everything else, the components, the transportation, the business services, the United States

is such a competitive supplier of all those aspects of delivering the car, that it overwhelms the wage differential with Mexico in that one particular example.

Mr. YERXA. Let me just—let me just use one example. I don't want to quote an economist because I am afraid I might get—might one—

Mr. PETERSON. Only thing worse is if you quoted a lawyer.

Mr. YERXA. Well, I don't think so. A government bureaucratic or a Congressman might be worse. Let me cite a reporter. We all know what high esteem they are held in. And this is a recent article from the Washington Post.

Now, it happens to quote several different sources, so if you don't mind, I will liberally play off of it, but it is talking to a number of companies. This is real life companies experiencing real life trade with Mexico and what their experience has been.

And it talks about the problems of doing business in Mexico and why at first blush you might think, might leap to the conclusion that many have that we can't compete with a low wage country. But here is what the actual experience has been and the headline is: "On Closer look Firms See Less to Mexico; Infrastructure, Reliability Problems Said to Outweigh Low Wages."

And it cites several examples of companies that have tried to go to Mexico to exploit low wages and have found that they were worse off. It cites the example of both large and small companies in the United States that have had this experience.

For example, General Motors deciding this summer to shift production of its 1995 Chevrolet Cavalier from a plant in northern Mexico to Lansing, MI because, as their spokesperson said, "It's not just wages, but the entire calculation."

It also quotes Louisiana based—you will like this, Mr. Chairman—McIlhenny Co., it is a maker of Tabasco hot sauce produced and packaged products in Mexico for sale in the United States, but in 1989 it decided that its United States based products would be much competitive.

Their president said, "Cheap labor had no effect on our decision." Rather, after calculating prices for raw materials and other production costs, "we decided Mexico just couldn't compete with our operation" in Louisiana.

Now, what causes these kinds of problems in Mexico? Let me give you a couple of examples.

[The information referred to follows:]

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BODY:

As Mexico's low wages emerge as a major issue in the debate over the North American Free Trade Agreement, U.S. businessmen and Mexican officials here are arguing that problems of infrastructure and a range of other economic factors make Mexican labor far less of a bargain than it first appears.

Mexico's highway system is falling apart; its railroads are dangerously decrepit; bureaucratic hassles and corruption abound; the phone system doesn't work; and Mexican labor can be unreliable, U.S. executives here say. When the chores of risks and drawbacks are included in the equation, they say, many companies will realize they are better off staying in the United States.

Some large and mid-sized U.S. companies, including General Motors, already are finding that Mexico is not the cost-effective manufacturing venue it used to be.

For example, GM decided this summer to shift production of the 1995 Chevrolet Cavalier from a plant in northern Mexico to Lansing, Mich., because, said spokeswoman Nicole Solomon, "It's not just wages, but the entire calculation."

Mustafa Mohatarem, chief economist for GM, said in a telephone interview that the lower wages paid to Mexican auto workers were not enough to offset other relatively higher costs of doing business here. "Transportation costs, potential delays at the border and . . . higher inventory storage costs in Mexico" contributed to the move back to Lansing, Mohatarem said.

For more than 20 years, Louisiana-based McIlhenny Co., maker of Tabasco hot sauce, produced and packaged products in Mexico for sale here. But in 1989 the company decided that U.S.-based production would be more cost effective.

"Cheap labor had no effect on our decision," said the company's vice president, Paul McIlhenny. Rather, after calculating prices for raw materials and other production costs, "we decided Mexico just could not compete with our operation" in Louisiana.

In large part, business executives who are speaking out on Mexico's problems hope to counter the well-publicized assertions of billionaire Ross Perot that

American jobs would hemorrhage southward under the NAFTA treaty -- which would break down trade barriers among the United States, Mexico and Canada, creating a free-trade area of some 360 million consumers. Although President Carlos Salinas de Gortari has engineered economic reforms and radically improved the country's business climate, they say, Mexico has many problems to solve before it can live up to the image Perot has tried to give it.

"It's astounding to me that the United States fears us," said Claudio X. Gonzalez, director general of Kimberly Clark of Mexico and Salinas's adviser on foreign investment. "We're the smallest, least-developed economy of the three [NAFTA signatories]. We're the weaker partner in this whole equation. How are we a threat?"

Mexico's infrastructure problems continue to be a major deterrent for American manufacturing companies that use modern "just-in-time" production schedules to reduce inventories and keep storage costs down.

Unanticipated delays, a daily aspect of life in Mexico, can scramble delivery schedules, said Steve Knaebel, president of Cummins Engine Co. of Mexico. "It's the unpredictability of the place," he said. "You never know when or where the problems will arise."

Knaebel estimated that each time he uses the telephone for a simple business call, for example, it takes three or four attempts before the call is completed. "This is the main tool I use for managing my business," he said, "and I can't even be sure if I'm going to get a line out."

He said Mexico's highway system is so dilapidated that truck transportation can take 30 to 40 percent longer here than in the United States, with 60 percent higher fuel costs adding to the bill. A new system of better-quality toll roads has improved some routes, but the cost is widely regarded as prohibitive for commercial traffic.

Railroads are hardly an attractive alternative, said Juan Manuel Correa, general director of Union Pacific of Mexico. "Overall, the system is obsolete. The technology has largely not been updated for 40 years," he said.

"They still send some of their traffic signals by telegraph -- while the rest of the world is in the age of fax machines," Correa said, noting that Mexico's state-owned railroad company still employs 200 telegraph operators. "There is no way this system could be competitive with industrialized countries."

A spokesman for the national railroad company, Ferrocarriles Nacionales de Mexico, acknowledged that a freight train operating in the 1930s, when the system was nationalized, had a faster average speed than do Mexican trains today.

Correa said business confidence in the railroads is so low that the system accounts for barely 12 percent of Mexico's cargo transportation, "whereas it should make up 19 to 25 percent."

Correa also challenged Perot's assertion that low-cost Mexican labor necessarily makes up for Mexico's deficiencies.

The Washington Post, September 29, 1993

Productivity per worker is a fraction of that in the United States, he said, noting that although the Mexican railroad has pared its staff from 80,000 to 60,000 employees, "they still only need 12,000 to 15,000 to do the job. In the United States, Union Pacific can do the same work with one person that it takes 17 to do in Mexico."

"Labor looks cheap up front, but the total cost can be very high," said a financial analyst at a major Mexican bank. "You're not saving money if it takes two or three times before you can get a job done right."

Bringing Mexicans up to American levels of quality and productivity carries a high price, and there is no guarantee that a trained employee will stay with a company once it has given him a marketable skill, said Ron E. Shaver, an operations manager of Hughes Aircraft Co.

In 1989, Shaver explained, Hughes transferred some of its U.S.-based microelectronics work to a Tijuana maquiladora -- a plant where materials are imported from United States, assembled with cheap Mexican labor, then shipped back north for sale. But it took years of training before the plant began consistently producing microcircuits at an acceptable quality level.

Cummins Engine's Knaebel noted that although Mexico's minimum wage is less than \$ 5 per day, other government-mandated benefits and adjustments can make the price tag five to six times higher.

By law, companies in Mexico must distribute 10 percent of pre-tax profits to their employees and pay an extra half-month's salary at the end of the year. In addition, they must pay 150 percent vacation bonuses, and 2 percent of their annual payroll must be contributed to an employee pension fund. Company-paid benefits for fired employees and salary demands by labor unions boost the base figure even higher.

"By the time you add all that up, we ended up paying our plant employees an average of \$ 5 per hour in 1992. And that was market average," Knaebel said.

Unless a company deals with highly labor-intensive, piecework production, such as garment manufacture, cheap labor alone would not be an adequate incentive to move manufacturing operations here, McIlhenny said. "The exodus [of piece-work manufacturing from the United States] took place years ago. Those jobs were gone even before they started talking about NAFTA. So where is Ross Perot's argument?"

"So why come here? What's the offset?" he asked. "I think it's a market that presents all kinds of opportunities for development and growth. It's a country starved for quality and services. That's where we come in."

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Mr. YERXA. Mexico's infrastructure problems continue to be a major deterrent for American manufacturing companies that use modern just-in-time production schedules and reduce inventories and keep storage costs down.

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He says Mexico's highway system is so dilapidated that truck transportation can take 30 to 40 percent longer here than in the United States, with a 60 percent fuel cost adding to the bill.

A new system of better quality toll roads have improved some routes, but the cost is considered prohibitive for commercial traffic. Railroads are hardly an attractive alternative, said Juan Manuel Correa, general director of Union Pacific of Mexico. "Overall, the system is obsolete. The technology has not been updated for 40 years."

A spokeswoman for the national railroad acknowledged that a freight train operating in the 1930's, when the system was nationalized, had a faster average speed than Mexican trains do today.

Now, these are some of the reasons that this initial flurry of terror on the part of American companies and workers and politicians that all of the business is going to go to Mexico really ought to be looked at again.

The fact of the matter is that on average in manufacturing, the United States is 4.7 times more productive per worker than Mexico is. That is across the entire manufacturing spectrum.

Mr. PETERSON. Today?

Mr. YERXA. Yes, and Mexico's productivity will improve; there is no question about it. As it improves, its consumption of products will improve. Its economic well-being will improve. Its status as a more advanced country which buys and sells from the United States will improve.

And Mr. Chairman, this is what we have got to do in the world if we are going to compete.

Mr. PETERSON. We would hope that the problem is we have advertisements from Mexican Governments saying come to Mexico, we will guarantee that we are going to keep our wages cheap. We are going to keep—we are going to make sure that they aren't going to go up more than 5 percent a year.

It is hard for a lot of us to understand how they are going to be able to buy anything of any consequence if they were kept in that condition. Although the average Mexican people, I get back to, why didn't we use the leverage that we have to force them to allow people to have independent unions, to be able to organize without the threat of the government coming in and harassing them like it has been testified in this committee?

You know, in the labor side agreement you went after issues that, as I understand it, are not problems in the trade sector of the

Mexican economy, which is what this agreement applies to as I understand.

So you address issues that are not problems, but you did not address the issues that are problems that this committee has heard, you know, two or three times from different groups that this is a significant problem, why didn't we—why weren't we able to get something into this agreement.

You said in one other time here that this is historic, that the first time this has been a labor—

Mr. YERXA. Absolutely.

Mr. PETERSON. What about the EC? What about what they did to Portugal and Spain before they let them come in? They required these kinds of changes before they let them come in, so I don't—

Mr. YERXA. Well, first of all, Mr. Chairman, I don't accept the proposition that we failed to address what the real problems are. As I said in my opening statement, the problem of enforcement of minimum wage, the enforcement of the child labor laws, the enforcement of the work place safety has been a real problem in the past, and this agreement definitely gives us the mechanisms and the leverage to improve that.

It also gives us the leverage to improve the industrial labor relations situation.

Mr. PETERSON. How does it do that? It is hard for us to understand how it does that.

Mr. YERXA. I said—

Mr. PETERSON. If the government is still going to control the unions and control the bargaining process, what—

Mr. YERXA. That is precisely what we believe will have to change over time because—

Mr. PETERSON. But this agreement didn't give you any ability to change that.

Mr. YERXA. Well I think it does. I think it gives us much more ability than we have under our current arrangement with Mexico.

Mr. PETERSON. How?

Mr. YERXA. As I said, they are undertaking obligations to enforce those laws. We have a mechanism in the commission—

Mr. PETERSON. I don't understand.

Mr. YERXA. Well, they undertake a general obligation to enforce all of their labor laws—

Mr. PETERSON. So the government in Mexico is now going to allow independent unions and not going to harass workers, like has been testified in committee; is that what you are telling me?

Mr. YERXA. Mr. Chairman, what I am telling you, it takes time to change any country labor policy, including the labor policy of the United States which has taken time and effort and a long period of evolution to improve.

What I am suggesting is under this agreement, we now have a forum and a mechanism to push Mexico in that direction, which is much more than we have ever had, and what I would like to hear is how we are going to get it without this kind of an agreement.

Mr. PETERSON. Well, I am going to defer to the other members, but I think you are going to have to start thinking about what you are going to do when this agreement is defeated, because it is going to be defeated and we need to figure out where we go from here.

One of the things I am going to try to talk to the President of Mexico about tomorrow because I don't think there is any chance in the world this is going to pass and—

Mr. YERXA. I think you and I are in honest disagreement on that point, Mr. Chairman.

Mr. PETERSON. Anyway—

Mr. ZELIFF. Mr. Chairman, I also have an honest disagreement with this statement, and I will be there with you tomorrow talking to the President.

I would just like to reinforce something I heard in the beginning, Ambassador. NAFTA is an opportunity to improve upon the status quo. It opens Mexico's market to the United States, improves our ability to advance labor and environmental issues. I think that is kind of where our disagreements here are.

How long have we been working on NAFTA?

Mr. YERXA. The—I think the initial negotiations began sometime in late 1989, early 1990. The Congress extended fast track for consideration of NAFTA in 1991.

The agreement was actually concluded, the original NAFTA agreement was actually concluded in the fall of 1992, and signed I think in January 1993 or December 1992.

So it was negotiated over about a 3-year period.

Mr. ZELIFF. OK. I would like to mention, Mr. Chairman, that Chris Shays from Connecticut has joined us, as well as John McHugh from New York on our side, and I guess a couple of others on your side as well.

During most of our normal trade negotiations that we deal with with other countries, do we normally go beyond basic agreements to the degree that we include agreements?

Let me give you two or three that you can just answer in one shot.

Are we using NAFTA to force social change on Mexico? Are we going—the expectations going beyond what we normally would do? Shouldn't we be concentrating more on expanding our economy and creating jobs back here at home in the basic trade agreement? How far do we go on the side agreements and do we force social change in Mexico?

Mr. YERXA. I would argue that we are really doing that. We are expanding our economy and enhancing trade because we are getting a market that is not open—not fully open here today, wide open to American exports, but I think beyond that, President Clinton recognized that you cannot have an open market situation unless you also recognize the need to have better cooperation and progress by that partner in environmental and social policy, including labor policies.

So this agreement does provide, as I said, a mechanism for putting pressure on Mexico to change. I think you have to recognize that some of the things that occur in Mexico occur because it is a poor country, because it has—it is moving up the development ladder and in a country that has substantial poverty and substantial underdevelopment, it is going to have many of these problems.

The more resources it has to devote to those problems, the more likely it is to address them, and that is what economic development is all about, and that is actually what happened in the United

States over time. If you go back to the beginning of the industrial revolution, we didn't—we didn't have a lot of these protections.

Our environmental laws have been evolving continuously over the last 50 years. We just changed the Clean Air Act to provide higher emission standards in recent years. So I think the point is, yes, it provides a mechanism, but we have to recognize that we are entering into agreements with sovereign countries. We are not about to compromise our sovereignty in those agreements and so there is a limit to what we can impose on another country. There is a limit to what its political system will absorb.

I think this agreement goes as far as you can possibly go in enhancing and improving those policies.

Mr. ZELIFF. So we improve upon the status quo. NAFTA then becomes a starting point for future success. We will probably observe Mexico going through some of the problems that we have experienced over the years as they improve their standard of living.

Mr. YERXA. Undoubtedly.

Mr. ZELIFF. And the opportunities that will be created, the increased disposable income, that they are already buying 70 cents of every import dollar from United States, would you expect that that would continue?

Mr. YERXA. Yes. What we have seen since 1986 is unquestionably an explosion in consumption of American products by Mexico. They have a decided preference for U.S. products. They buy, as you said, about 70 cents of every \$1 they spend on imports is American goods.

And one of the questions I think Congress ought to keep in mind in deciding whether or not to go forward with this agreement is the very simple fact that Mexico is going to develop its economy no matter what.

They have made a decision of national policy. It is based on their own self interest. They are going to industrialize. They are going to modernize. They are going to change from an agrarian predominantly to a more developed economy.

They are doing that because it is good for their own citizens, not because we want them to. The question becomes are they going to do it in close cooperation with the United States where we can deal with problems, such as the environment, the immigration, where we can change what has been in the past a relationship where we have literally turned our backs to one another and ignored one another, or are we going to do it in a cooperative vein, and if we turn our backs, the chances are that Mexico will look for other partners to do the same thing.

The most likely partners are Japan and the European Community. I think the likelihood of Japan seeing a golden opportunity to develop the kind of outward processing types of arrangements with Mexico that they have with other countries in Asia are very real.

You know, if you look at the complaints the Japanese Government is making to us now about NAFTA, they are very revealing because the Japanese Government is raising serious concerns. They are raising concerns about the rules of origin which we have under this agreement, which create a very tight North American content rule, so if you are going to get the advantages of the trade provi-

sions under this agreement, you have to be producing with North American content and the Japanese don't like that.

Mr. ZELIFF. What kind of a—

Mr. YERXA. Why? I will tell you they argue that their electronics component industry will be extremely adversely affected by this. They have actually raised three main areas to us. Cathode ray tubes, semiconductors, and television manufacturing. Their fear is that we will be replacing Asian production with North American production.

They—they are worried about the phaseout of the maquiladora program because they see opportunities today to benefit from that program. And they are afraid that the phaseout of maquiladors by 2001 means that they will lose their ability to import parts duty free to Mexico.

Now, I think what is going to happen if NAFTA is defeated is the Japanese will definitely see an opportunity to fill a vacuum.

Mr. ZELIFF. How big is the market between the Canadian and Mexico, United States market would be what, \$6.5 trillion?

Mr. YERXA. It is close to \$7 trillion and about 370 million people.

Mr. ZELIFF. And the Western Europe market would be—is about how much?

Mr. YERXA. Slightly smaller, I believe.

Mr. ZELIFF. And so the ball game has changed where we are out there by ourselves at this point, and doesn't this give us a chance in terms of the global market to, within our hemisphere, to provide a very heavy set?

Mr. YERXA. Well, the fact is that this is precisely what Japan is doing today. Japan is creating an Asian economics sphere which is based on using the high quality, heavy research, and development intensive base of their large companies in Japan and benefiting from outward processing, low wage assembly, et cetera, in many, many parts of Asia in order to compete effectively with the United States.

I think we definitely have to confront the fact that if we are going to compete effectively with Japan, we are going to have to have a larger North American economy with an integrated manufacturing base, one which, by the way, will rely very, very heavily on the strongest assets the United States has: Our brainpower, our research and development, our innovation, our manufacturing methods, our highly developed infrastructure, all these other things.

That is why the administration is—takes a much more hopeful and positive attitude about the chances for competition in the world than the critics of this agreement.

Mr. ZELIFF. Mr. Chairman, how about if I yield over? I do have some more questions.

Mr. PETERSON. I believe we should give the other members a chance. What I am going to do here is follow the suggestion of the freshmen caucus that we recognize people as they show up, and we will alternate between Democrats and Republicans. How will that be? Then we will recognize Mrs. Thurman.

Mrs. THURMAN. Mr. Ambassador, we appreciate you coming here today.

Mr. PETERSON. Why don't we try to keep, you know, 5 to 7 minutes apiece, and we will go around as many times as necessary so that everybody has a chance.

Mrs. THURMAN. Certainly. I appreciate the chairman trying to bring all sides of the issue to this committee, and I commend him for that. I know his strong feelings about this issue and I certainly share his feelings, so you will know that from the onset of this conversation we are going to embark on, Mr. Ambassador.

I am from Florida, which is a State that feels that it will have—that NAFTA has a very negative impact because of the production of agriculture. So I am going to try to bring some issues in that way.

But I am going to first jump to some conversations that we had yesterday with the agriculture commissioner from North Dakota who brought to our attention some very interesting issues, and you mentioned a little bit of it in our market areas, but particularly in the issue of beans.

What has happened in North Dakota is that right now they export, I think, they said an average of somewhere around 93,000 metric tons over the last 3 years of dried edible beans. Under the agreement, it is written that they could only export 50,000 metric tons before a tariff would be imposed of as much as 139 percent, so her thought was that it is about \$400 and something for a metric ton today, and then you take 139 percent and it adds another \$400 and some particular dollars to those.

But the interesting part is that today over an average, I mean both—2 years it was at well above 87,000–90,000. One year they were a little bit lower than that. But we are only allowing them to export in at 50,000 tons under the agreement.

The agreement itself is then silent on what happens when Mexico needs the additional 40,000 metric tons. Where would they go to get this? What kind of agreements have been decided then, whether we will then compete with say China with the same product?

And so that means, the production that they have can't get into that market. They can't compete. What do you say about facts like that? What happens under these scenarios? It hurts them.

Mr. YERXA. Well, first of all, the—the characterization you have given is correct as to the transition from what is currently an import licensing scheme in Mexico where they set quantitative limits on imports, and they have turned those into what we call tariff equivalents that changes a quantitative limit into a tariff limit, and under the agreement then phasing that tariff down over a period of time so that when this agreement is fully phased in, there will be no quotas on imports of beans into Mexico and no tariffs.

Mrs. THURMAN. But it is a 15-year period of time.

Mr. YERXA. That is correct.

Mrs. THURMAN. How long can that farmer survive?

Mr. YERXA. This is what we did for sensitive agriculture in the United States is we provided a 15-year phaseout of the tariff protection.

And the reason I make that point is that the way this conversion from quotas to a tariff cap was made with beans set that at a level that was based, I think, on a historic volume, and there was a pe-

riod where the volume was higher and, as you say, this would be lower than the record high.

Mrs. THURMAN. Than the average?

Mr. YERXA. It was based on an average. The point is that the goods coming in under that amount have no tariff at all. The goods coming in above that amount have a tariff, but that tariff is then phased out.

That is the same way we did it with regard to imports from Mexico into the United States.

Now, I think you are going to have industries complain about the fact that they are facing this barrier; that it doesn't phaseout fast enough. I think a lot of them would acknowledge that over the long term they are better off and the question is who is benefiting in the short term.

Of course the Mexican agricultural sector believes that they got a terrible deal because in many sectors the United States will get immediate access where we don't have access today, you know, examples such as—such as corn and certain horticultural products.

So I think this is obviously a mixed bag on agriculture. Both countries are moving toward elimination of the restrictions and you are going to have criticisms that the way the phaseout works for one isn't as fair as it ought to be, et cetera.

I think overall we benefit tremendously from agriculture on this agreement. We are now a big exporter of agricultural products to Mexico. It is one of our fastest growing export markets, not just for agricultural commodities, but for processed food products, you know, for example, the United States has had a 400 percent increase since 1986 in exports of baked goods to Mexico.

Mrs. THURMAN. There was an example you used on potatoes and frozen french fries going down there, but once that market opens, the potatoes go down there, they are processed down there, not in the United States, again, losing some additional jobs.

Mr. YERXA. The truth is they will be processed in both places.

Mrs. THURMAN. But since we have talked about the beans and—that the Mexican Government is now going to give some additional subsidies to their farmers over a short period of time to help cushion some of this so that they can go out of the production of beans and corn because that opens, in fact, then the markets supposedly to the American farmers.

Let me tell you the adverse effect it has on Florida then because those areas that they stop production in beans and corn they are suggesting that they go into fruits and vegetables, which is in direct competition with Florida agriculture, and we have not at any time, whether it has been through this administration or the last administration, have we been given any help on any agreement, whether in the original or the side agreements, and I am really curious to know when you negotiated with them, what was put on the table for Florida agriculture and the impact because of the impact it is going to have?

We have not heard anything back. We can't get anybody to solve these problems. They are ready to compete with anybody, and I think they could, but there is no satisfaction in this at all. In fact, if anything, we are asking them to become even more competitive with Florida agriculture.

Mr. YERXA. I did not, as I stated earlier, I was not the negotiator for the NAFTA text itself. I came along after it was done, but I do know some of the history of the negotiations.

And since these concerns have been raised to us—since they have been raised to Ambassador Kantor and to me, we have looked into them quite extensively and have actually had numerous discussions with Florida agriculture groups, both citrus and fruit and vegetable growers.

Right now what the agreement provides, if you take the area of citrus, for example, it provides a phaseout of the tariff in the United States which is currently depending on whether you look at concentrate or frozen and depending on the value of the imports is somewhere around a 40 percent tariff.

It phases that out over time as we are phasing out Mexico's restrictions on our agriculture, but it places what we call a transitional safeguard, that is one that during this phaseout period will result in a snap back of the tariff if there is certain conditions met. That is if the import volume goes to a certain level. So it is a volume-based transitional safeguard.

After the full phaseout period is completed, there is then a permanent safeguard which is available not just for agriculture but for all products which would allow for the imposition, the reimposition of NAFTA duties or—pre-NAFTA duties, I am sorry, of the exiting duties in cases of import surges and injury.

Now, I have had discussions with Florida citrus growers and others about the concerns on how this safeguard works and whether or not we can deal with that problem more effectively. And we are looking at what can be done.

Now, I do want to say to the Congresswoman that my understanding from talking to my predecessors is that there were numerous discussions during the negotiations with Florida citrus groups, with fruit and vegetable growers, et cetera, and at the time that the negotiators concluded this agreement, they had apparently worked very closely with these groups in devising those transitional safeguards I talked about.

But Ambassador Kantor and I certainly are concerned about whether or not they are adequate and are looking at what we can do about it.

Mrs. THURMAN. Could I do one followup?

Mr. YERXA. I do want to point out—

Mrs. THURMAN. I am going to move real quick, but it is right on this.

Mr. PETERSON. By the way, we are going to have an—October 28, we are having a hearing focusing on the agriculture worker also in this subcommittee so we will get into this deeper at that point.

Mr. YERXA. I do want to point out one other fact and that is, since 1987 if you look at Florida exports to Mexico, of agriculture, forestry, and fisheries products, we have had about a 3,000 percent increase in exports. It has grown from about \$266,000 to about \$10 million in exports. Still small.

Mrs. THURMAN. The imports though at times, tomatoes or limes when they have been dumped on ours when we have had some rough times, too. There is some tradeoff, but let me just ask this because these are questions that my folks at home are asking.

Were the proposals that Florida agriculture proposed given to Mexico, and if they were, what was their response, and if they weren't, why not?

Mr. YERXA. Well, I mean as I said, I was not the negotiator, so I am not sure I can answer that question.

I do know that the Florida agriculture groups were in constant communication with the administration, with the previous administration during the negotiations.

They obviously don't feel that the deal is satisfactory to them, and I understand that and that is, as I said, we are looking at that situation.

Mrs. THURMAN. If you find out the answer to that, will you give it to this committee, please?

Mr. YERXA. I would be glad to.

Mrs. THURMAN. Thank you.

Thank you for your indulgence.

Mr. PETERSON. The gentleman from Connecticut is recognized.

Mr. SHAYS. Thank you, Mr. Chairman.

First, I would like to confess it is very difficult for me to participate in these hearings because I so strongly support NAFTA, I have a hard time, after hearing the answers, wondering how anyone could object to it. What I am saying is that I am very balanced on its view.

But having said that, I appreciate the questions of the chairman and Mrs. Thurman and others who oppose it, the thoughtful questions, and I want to say to you that I think you have conducted yourself extraordinarily well.

I am very impressed with your answers. You obviously know this agreement well. You have thought about it. So I am impressed with this hearing and appreciate, Mr. Chairman, that you are having it.

But I go crazy thinking about the possibility that we would defeat it, and just commenting on what the chairman said, if it is defeated, notwithstanding the thoughtful opposition of some, it will be defeated by people who are doing it in my judgment because labor has made it a litmus test. So it must be a little frustrating for you to tell people the facts, and the facts notwithstanding, down goes NAFTA. I pray that this is not defeated.

If it is defeated, I think it will be a dark day in the history of the United States and I think history will condemn us severely. I have a hard time understanding how we have greater authority over a Japanese company or a European company that will be on our border when they fill in the void when they reject NAFTA.

Let me ask you this: Is jawboning still a viable means for the administration to encourage companies, American companies, to comply with the law and even in areas where we might not have a direct impact but an indirect?

In the days when I grew up we jawboned the steel industry to get in line like what we are trying to do now with the drug and pharmaceutical companies. We are saying you don't want price controls, then maybe you shouldn't go above the cost of living.

Is that a viable means for the government in dealing with American businesses?

Mr. YERXA. Well, I am not—I am not the administration's designated jawboner, but I think that there are a number of ways in

which because—because our industries are looking for the government's help in opening markets to them and because there are legitimate concerns in the United States about how our industries will take advantage of those opportunities, I think the government does have a responsibility to influence in a variety of ways the way our industries might compete in the world.

I think for example convincing a lot of them that staying home and manufacturing here and exporting is in their interest. What a lot of these companies have said to us is you can't expect us to do that unless you are opening foreign markets and that is really the reason for trade negotiators.

Mr. SHAYS. But is it unreasonable for me to think that if an IBM, or a Xerox, or another company, is doing business in Mexico, that we are not going to be unmindful of what those companies do in terms of their labor practices in Mexico and their environmental practices?

Are we going to be silent? Are we going to be expressing our concern if we don't think that they are compliant under Mexican law?

Mr. YERXA. This administration is going to be very vigorous in expressing its concern. That is the reason the President felt so strongly about having these commitments from Mexico in the supplemental agreements and our companies—by the way, you know, many of our companies, there are examples and I am sure members of this committee could cite examples where companies have taken advantage of lax standards, but you know the overall studies we have done show that many of our companies have actually adhered to higher standards in the development of new plants in Mexico than their Mexican competitors have.

Mr. SHAYS. The bottom line to this is that what American companies do overseas is not unimportant to the United States and we let them know that.

Mr. YERXA. That is correct.

Mr. SHAYS. It seems logical to me that we have a little more impact with an American company in Mexico in terms of its labor and environmental laws than we are going to have with the Japanese or the European Community.

I take it that it is pretty obvious there are going to be companies on our border. The advantages to Mexico to export to the United States are there with or without NAFTA, and I sure as hell want to make sure it is an American company.

Now, I look at the labor law, and maybe I am way off base, but I look at Mexico as a third world economic power. I see 88 million people. I see United States 249, 250 million. I see an economy that is 20 times larger at least, and I am saying to myself, we are telling Mexico that it has to act like a first-rate economic power.

I think people learn to breathe first, then they decide they want to eat, then they talk about lifestyles. Is it logical for me to make an assumption, that as Mexico improves its economic condition, it will begin to think about not just eating and the survival of its economy, that it can start to think about the very important issue also of labor and environmental laws with a little more force?

Mr. YERXA. I—it won't come as any surprise that I fully agree with your observation. I guess we can say that there aren't many undecideds in the room but, Congressman, you make a very good

point. That is the best way to see evolution of high respect for workers, for the protection of consumers, for the enhancement of the quality of life is to get people out of a cycle of poverty and getting them out of a cycle of poverty, doesn't—you don't have to do that by impoverishing yourself.

The great myth of the opponents to this agreement is that if someone gets better, someone else gets worse. The fact of the matter is the way expanding trade can work if it is done properly is that it is not a zero sum game. Both economies benefit and I think one of the—one of the real concerns I have of the way the opposition to this has been portrayed would tend to suggest that we are better off with a poor Mexico than we are with a rich Mexico.

Mr. SHAYS. Let me just close up on that.

Mr. YERXA. And just—you know, that to me is as absurd as suggesting that people in New York will be better off if people in New Jersey are having a recession.

The fact of the matter is if you bring up their standard of living, it is going to enrich us as well, and I don't buy the argument that keeping your neighbor poor is in your own economic self interest.

Mr. SHAYS. It is not in our economic self interest. It is not in our political self interest, and I just—I will conclude in this one other area, I spent nearly 1 year of my life doing a risk analysis for a large American company's subsidiary going into Mexico 10 years ago.

And I just marvel at the progress Mexico has made in the last 10 years. This company would have had to go in and had minority ownership. There were a whole host of other factors. I recommended it not go in.

We are seeing just an incredible change and politically for us to reject this will restore what Mexico has done for over 100 years and that is hate its neighbor to the north, think of its neighbor as a bully. But I just conclude with this one area because I am tired of hearing this and you said you were going to get to it, but then you got sidetracked.

I am having people tell me for transportation, they can just ignore all our laws. They can ignore environmental laws. They can ignore our transportation laws. It is my understanding that the transportation laws of the United States are what determines what Mexico can do.

And if they are allowed to do what they do down there up here, it is because the State of Texas has agreements with Mexico that there are certain areas where they can do that. I would like you to clarify that and I will end my questioning there.

Mr. YERXA. I would be glad to. Under this agreement, we maintain full control and sovereignty and do not in any way trade away any of our laws regarding safety, health, consumer protection, whether it has to do with the standards we impose on pesticides and food, whether it has to do with truck lengths or truck weights, or—

Mr. SHAYS. Let me just ask this question: Is a truck that drives over 100,000 pounds in Mexico allowed to come up to Connecticut to, oh, St. Louis at 100,000 pounds, the Federal law being 80,000. If it is allowed to come at 100,000 pounds in certain areas of Texas it is because Texas has agreed to it.

Mr. YERXA. That is exactly right. It has to meet the U.S. standards and it even has to meet the higher standards of a State that has standards also different than the Federal standards.

Mr. SHAYS. If Texas decided to make its standard 60,000 as opposed to the Federal law of 80,000, then Mexico would have to comply with that?

Mr. YERXA. That is correct.

Mr. SHAYS. Unbelievable. Thank you.

Mr. PETERSON. I am going to recognize the gentleman from New York, but I would just like to say that I don't think there is anybody in this room that wants a poor Mexico.

And the problem that some of us have is we think this agreement will probably ensure a poor Mexico. And we have a hard time seeing how it will change the situation down there.

Mr. SHAYS. Could the chairman tell me how he could see it if they are—

Mr. PETERSON. We have had testimony in this committee that you cannot organize a union in Mexico. You can't bargain without getting the government's approval. The government has said we are going to keep the wages down. They are advertising. We have copies of it where they are saying to American companies come to our country and we will guarantee you that we will—

Mr. SHAYS. If more people who are out of work have jobs, how does that make them poorer? That is the logic that escapes me.

Mr. PETERSON. It doesn't make them poorer, but they are getting these kinds of jobs that are paying \$1 an hour.

Mr. SHAYS. That is true but in my study of Mexico, there are so many people who do not have any work who will get work.

Mr. PETERSON. But I do have a lot of people in my district who don't have any work, and the problem I have with this is that we are going to encourage American companies that ought to be investing in my district because I have all these people out of work and want to process our agricultural products, they are going to go to Mexico with their capital and that is the problem I have because these companies are advertising to—

Mr. SHAYS. The problem is that there are people in my district that are going to be working because they can export to Mexico. That is the challenge I am faced with.

Mr. YERXA. Mr. Chairman, I am aware of that advertisement you are talking about. The fact of the matter is they have gotten—they have gotten precious little out of those advertisements. They have gotten very few companies to sign up for it.

There is no question that development authorities in different countries try to attract investment. That happens in Minnesota. It happens in Texas, it happens in Florida.

You try to make the most appealing case you can to investors coming in. What we have to look at is the reality of what is going to happen in Mexico under this agreement.

What is going to happen is as Mexico's economy develops and opens up to the rest of the world, its wage structure is going to rise. Its worker productivity will also rise, but with it will be rising incomes of its workers and rising costs of production because that is exactly the trend that has been followed in other countries that have developed.

I think what I cannot agree with is the notion that what is going to happen here is that they are going to open up their entire economy, and it is going to become—it is going to have to live in global competition but, at the same time, they are going to somehow control in one fundamental aspect of their production which is the wage structure.

You are right—

Mr. PETERSON. The whole global competition is putting wages down, not just Mexico, it is pushing wages down.

Mr. YERXA. Mexico had lower wages and real wage decline during the period of the 1980's. Why was that? Was it a highly protected market? It had hyperinflation. It had \$100 billion foreign debt.

It was doing all the wrong things and because of it the real purchasing power of their consumers dropped off the bottom of the scale.

Mr. PETERSON. The government forced the wages down.

Mr. YERXA. No, that is—

Mr. PETERSON. Sure they did. They cut the minimum wage.

Mr. YERXA. Congressman, the real—the real forces that brought that about were the economic circumstances of the country. And what has happened since 1986, where they have brought inflation down below 10 percent; where they have encouraged foreign investment; where they have opened up their market; where they had deregulated industries; where they denationalized everything from telecommunications to transportation, is real wages have risen.

Why have real wages risen? It will come as no surprise I hope to you, Congressman, that in a free market economy, wages rise with productivity.

Mr. PETERSON. But they are still less than they were. What happened—

Mr. YERXA. Of course they have further to go.

Mr. PETERSON. I apologize to the gentleman from New York. But what happened was they made the workers pay for all the problems the government created, that is what happened in Mexico.

The gentleman from New York.

Mr. FLAKE. Thank you very much, Mr. Chairman.

Let me commend you again. I have come to each of these hearings. I find them stimulating and more interesting each time.

Mr. Ambassador, first of all, let me welcome you and ask just a few questions.

You state on page 4 of your testimony that the administration believes that NAFTA will add an additional 400,000 jobs relating to exports in the United States by 1995.

While the studies acknowledge that there will be some jobs lost in certain sectors, it contends overall job gains will significantly exceed job losses.

The problem that I and some others are having with NAFTA is that even as I listen to your testimony, there are segments within this society that are no better off than segments within Mexico where we are trying to—where your arguments say that a part of agreeing to NAFTA gets people out of the cycle of poverty. It allows not only them but America to be better off because America will,

in fact, be knowledgeable of who is on its borders, the kind of corporate involvement and the kind of corporate interest.

We will raise Mexico's standard of living. Those are your words.

The reality is that when you look at the labor problem for manufacturing jobs in the third world nation that is within our borders, and America does not want to deal with that reality but it is a fact, when you conglomerate all of the urban communities in this Nation you have all—the essence of all that is represented by third world Mexico and by any other third world nation. There is no development, no serious commitment to economic development, no manufacturing jobs, and yet in your statement you say that the additional jobs will be created relating to export?

Those communities have nothing to export. The only thing they have is a job and that job has been minimum wage in many instances.

How do you expect full support from all of America for a NAFTA treaty to empower persons whose lifestyle now reflects the same conditions as persons within our own borders who will not benefit by NAFTA because there is nothing to export and who will probably be a part of that job loss sector that you have identified in your testimony?

Mr. YERXA. I certainly understand fully the analogy you are drawing between the large segment of Mexico's population and poverty or in the developing world and what you referred to, I think, as the "third world within our own borders."

There is no question but that many, knowledgeable Americans find themselves in situations where we have serious, serious concerns about the availability of jobs, about the economic prospects they face, about whether or not we are going to be able to create in this country the conditions that will lead to benefits for them.

And I think that a good argument can be made—and I am not—I am not trying to be, shall we say—I am not trying to suggest to people that this concern hasn't been looked at very carefully by the President and by the administration.

I think a very good argument can be made that the same kind of protection and unwillingness to recognize the economic future of a global economy that kept people in Mexico poor would do the same thing here if we were to yield to that temptation; that we are not going to protect jobs in the United States by failing to recognize the changes in the world economy that are taking place and the need for America to compete in the world economy. And that ultimately both the high skilled and the medium-skilled jobs in this country and, in my opinion, all jobs requiring skill, are going to be made better by opening world markets to the United States, because it is going to make the manufacturing sector healthier.

It is going to make the technology sector healthier and that is going to provide greater growth in everything from services to—to the lower wage manufacturing. We have a lot of jobs in this country. I mean, take the textile industry, for example.

We have I think it is almost 2 million jobs in the textile sector. The textile industry overall is supportive of this agreement because they are concerned about what has really happened, which is a lot of jobs going to countries in Asia where the entire product is a non-United States product.

What they get under NAFTA is a North American content rule which ensures that a good percentage, a very large percentage of that product is made from U.S. fabric, from U.S. fiber, from U.S. yarn, thereby supporting jobs in the United States. What I do think we have to recognize, though, that defeating NAFTA is not going to ensure that we hold on to those jobs. Defeating NAFTA is going to continue a trend which has occurred in the past of a migration of jobs in those industries to places like Asia.

The other point I make is that one of the clear pressures on people in urban areas in America who are fighting for the scarce jobs that exist today is immigration. And while it is true that we open up in a couple of sectors to greater competition from Mexico which could have an effect on the lower end of the wage spectrum, we are also reducing significantly the immigration pressures over time because if Mexicans have an economic future at home, they are less likely to immigrate to the United States.

That in the analysis we have done, indicates that there is something of a wash there between the greater pressure from imports and the less pressure from immigration. But I think the more important point is that we should not assume that just because the direct export to Mexico might be a finished product, a computer, or a—or a telecommunications switching device, that just because the person who produced that particular product is a high-skilled manufacturing employee that there aren't many, many jobs surrounding that industry and surrounding the production of those products in the services sector, in the manufacturing of components, in the manufacturing of input products, in the creation of the software, in the transportation of those goods and everything else.

That is a way to create wealth in this country: By looking for foreign markets that benefit all jobs in the United States.

Mr. FLAKE. But those support systems will not be built in urban America. Corporate America has ignored those communities. If I had some guarantees that opening the door through NAFTA would create even the technological systems and jobs would go to New York even in Houston, which is closer to the Mexican border, which is my home, or Memphis where I have a home, even if it were that close, if there were guarantees that those communities also would have some direct benefit that would guarantee that those back what I would call support system jobs were going into those communities, Mexican immigration does not impact most urban communities.

Mr. SHAYS. Would the gentleman yield?

Mr. FLAKE. Yes.

Mr. SHAYS. I just want to say there is the most significant issue and the greatest weakness with NAFTA is the fact the jobs we will lose, the people who will benefit from the exports of the United States will not be from urban areas. I think you are right in the center and I think my own attitude is, NAFTA notwithstanding, we still deal with that issue.

Mr. FLAKE. That is correct.

Mr. SHAYS. And this way, if one thinks about leverage in terms of importance of votes and so on, this to me is an area of tremendous opportunity for urban areas if they think about establishing an industrial policy that encourages companies to come back into

urban areas because we don't have an industrial policy. My point is I would love to work with you on this issue because I think you have identified the biggest problem with NAFTA, but more importantly with our whole industrial policy.

Mr. FLAKE. And I think that is an issue that has to be resolved. Just as your constituency understands in Connecticut that there is a direct benefit for them by virtue of the fact that technology and the high-skilled jobs that are a part of the area in which you reside, my community raises the question "what is in it for us?"

Even though you may develop an industrial policy, it does not have any initial impact in any economic way that they can see at this moment. And so the reality is just as you have that responsibility to assure that the jobs come to support your constituency, I have the responsibility of trying to determine how this particular agreement impacts my constituency.

And at the moment, I don't see any impact because if the American attitude of corporate America is the same in Mexico as it has been in America, it will play the race game and will make its decisions in terms of how it makes those investments based on I suspect what will happen in Mexico.

I grew up in Texas in poverty. My parents had 13 of us with a fifth and sixth grade education. So I have worked at the level of the Mexican, if you will, from picking cotton all the way up. I don't think it made a difference in terms of overall American policy whether those persons who were in that kind of environment overall have been significantly impacted.

I have done a hearing down in the Delta in Mississippi. Those people who were left over from the cotton era have not been put into any conversion process that will allow them to benefit by any of what we are talking about. And my suspicion is that what is going to happen in Mexico is that you are going to have the same kind of pockets that you now have in America because corporate America is going to discriminate, no doubt, against Mexicans as it has against blacks and others in this particular country.

That is the fear of the African American community across the board and that is the fear of poor people across the board whether they are African American or not. And that issue needs to be a part of this debate because without that issue being lifted, maybe even in terms of some industrial policy or something, that says you will not suffer because of what we do.

I realize that signing NAFTA will not in any way—will not negatively impact my community any more than it is presently, but I think that to receive the benefit of that support, there ought to be an understanding that we not just look there for opportunities and not understand that we have fertile fields of opportunity in this country that we have ignored and you know that is my concern.

Mr. YERXA. Let me say a couple of things because I think you have made some very good points about what can happen unless there are policies in place to drive economic structures and job creation in the right direction. I mean that is the reason that it seems to me that you can't ignore elements of social policy in all of this.

Mr. FLAKE. That is part of the problem. We reduce it to social policy. It is equally economic policy for urban communities in America as it ought to be for Mexico. And once we put social on

it, we have already taken it out of the mix of potential investment as it relates to economic development, and that is the problem with how we address it.

Mr. YERXA. My point, Congressman, is that this really has to be seen as part of an integrated strategy for creating the right kind of conditions for development.

The administration feels strongly that you can't simply look at trade and ignore other aspects of our development and that is why all of these efforts to redirect this Nation's course are integrated. We need better education. We need better health care. We need a comprehensive health care system.

We need worker training programs which are really available and which deliver results which deliver real training and real income support to communities that are affected by change because change is inevitable, as the President has said. The question isn't whether we are going to have it; the question is how are we going to cope with it and make ourselves benefit from it.

And if you look at the changes that are taking place in our economy because of defense conversion, because of technology, just a couple of examples. We have about 120 million jobs in the United States. I think it is 118 million. The average I think in the decade of the 1980's was that about—there were about 9 million changes in jobs per year in the United States. That is, not all of those are job losses.

In fact, not all of them were even job gains, but 9 million changes in job descriptions, new jobs, jobs lost, et cetera. A huge percentage of that comes from changes in technology which is driven not by trade or international competition, but is driven by you know changes in the development—in the production process. We are producing about 90 percent of the steel we produced in the 1960's but we are doing it with less than one-fifth the work force.

We are producing more with fewer people and the question becomes how do we then continually adapt. The point that the President keeps making is that without new markets for our products, we cannot think we are going to preserve our job base in this country just by protecting the American market; we are not going to do it. We are going to have to have growing international markets to do it.

Now, the aspects of this, and I think you are absolutely right, are what kind of behavior do we have from our companies and from our producers to invest in their own communities, but government has to be in partnership with them in creating the right conditions to do that. I don't think there is no reason that any of that is incompatible with NAFTA.

I would argue that getting ourselves a national consciousness which is moving toward recognizing that we need open world markets, we help to create the kind of mentality in this country that says let's be competitive. What do we have to compete? Let's fix our health care system. Let's fix our educational system. Let's have a comprehensive worker adjustment program.

Now we have a worker adjustment program that in bits and pieces and you have, you know, people have to certify that they lost their job because of trade or they lost their job because of defense conversion, et cetera, shouldn't be—national policy shouldn't be to

ask why did you lose your job. It should be to ask what kind of job can we create for you in the future and how can you be best trained to fill that job.

And I think that an essential component of this debate ought to be the consideration by the administration, the Congress. Secretary Reich is working on this project of a comprehensive program for worker training and adjustment.

Mrs. THURMAN [presiding]. Will you yield for a minute?

Mr. FLAKE. Yes, I will.

Mrs. THURMAN. And I think all of us here, since there is only some of us left that probably voted on some of those programs to help the administration, agree that the President has gone a long way in trying to work through those issues and understanding the changes within this country.

However, let me go a little bit further in the fact because I think there is even going to be another further displacement. In an article that was done in the Wall Street Journal, in particular, there were some—and I am going to go back to the agriculture sector a little bit, and it talked about the fact because of new subsidies and the fact that Mexico could become more efficient and effective in the way they produce their agriculture products—in fact, we could potentially see more immigration coming in from Mexico than reduction, and yet we continue to hear you all talk about that there will be a reduction of immigration.

How are we going to deal with this?

I mean, here we are talking about our own country having major issues as far as employment opportunities and retraining and now we are going to bring in—I mean, if it goes from 30 percent to 15 percent, I mean that is as much as I think 10 million people that potentially could come into this country or that we would have—

Mr. YERXA. Thirty percent to 15 percent, I am not—

Mrs. THURMAN. You are talking about the Mexican farmers would go from 30 percent of their population to 15 percent and that in our calculations, that is about 12 million people who will need jobs. From that figure, there will be a certain segment that will come over into the United States looking for jobs.

We need to understand what the impact that has, particularly with what we are already facing and I thank the gentleman for yielding.

Mr. YERXA. I have not seen the specific article you are referring to.

Mrs. THURMAN. I have a copy.

[The article follows:]

## Mexico's President Plans to Cut Back Farm Subsidies

By DIANNE SOLIS

Staff Reporter of THE WALL STREET JOURNAL  
MEXICO CITY — President Carlos Salinas de Gortari announced a plan to restructure Mexico's ailing agricultural economy, as part of a long-term plan to stem emigration to the U.S.

The program also hopes to wean Mexican farmers into the more competitive marketplace that the North American Free Trade Agreement would create. The program offers incentives to encourage farmers to become more efficient and also eliminates government subsidies for corn and beans, with the aim of getting farmers to switch to other crops.

Some economists fear the program — while needed — may actually increase emigration to the U.S. in the short-term, because the elimination of crop subsidies will wipe out many farm jobs and force the workers to seek work elsewhere.

Mexican officials said they believe that in 15 years the number of Mexicans living in the countryside will shrink to 15% of the total population from 30%. By contrast, in the U.S., about 3% of the population depends on farm income.

Under the program, the Mexican government will try to cushion the pain caused by the elimination of subsidies. It will increase payments to farmers to about \$1.6 billion next year from about \$1.5 billion currently. But the government then will phase out the payments over the next 15 years.

One of the effects of the program should be to get Mexican farmers to reduce their reliance on corn and beans, which they don't produce efficiently. That should open the Mexican market up to more exports from U.S. farmers. It should also encourage Mexican farmers to produce more vegetables and citrus fruits, which they can do quite profitably.

The government had tried two years ago to reform the agricultural sector by partially privatizing Mexico's communal farming system — once considered a crowning achievement of the 1910 Mexican revolution. But Mexico's agricultural economy has actually contracted in the past two years.

Economists generally praised the Mexican government for trying to tackle what many describe as Mexico's most complex social, political and economic problem. But Washington, D.C., political economist Raul Hinojosa said it's still not clear whether a farmer will use the new type of government payment to buy a ticket to Los Angeles or a John Deere tractor. The check "could be seen as a one-time windfall. So the farmers will say, 'Let's migrate,'" Dr. Hinojosa said. "Or it may make them think there's reason to stick around."

Wall Street  
10-5-93 Journal

Mr. YERXA. OK. We have looked very closely at this entire issue of changes in Mexico's agrarian structure in their agricultural regime and what impact that has on immigration and what impact NAFTA has on that situation.

Now, what is happening in Mexico is a trend that has happened in many other countries. It is going to continue in Mexico with or without NAFTA. That is that they have determined it is unsustainable to have this policy of small landholders farming 2 acres of corn. It just isn't going to work for them.

As the population grows, those parcels kept getting smaller and smaller, their agriculture became more and more inefficient, their farmers became more and more poverty stricken. They have determined that they have to go in another direction.

Mrs. THURMAN. Fruits and vegetables.

Mr. YERXA. More efficient agriculture. But it is more efficient agriculture clearly, which means they have to be a more efficient competitor. No question about it.

As they do that, there will be a change in their rural population and they will be moving to population centers and the question becomes are there going to be jobs for them when they do that. Now, under NAFTA there is a potential for them because it increases the opportunities, and for economic growth generally. There are opportunities for them.

Without NAFTA, I think you are going to find Mexico locked in this cycle of poverty. They can't afford this inefficient agricultural structure, but they don't have the incentives to create a modern economy either, and that is likely to lead to greater immigration to the United States rather than less, and most of the studies that have looked at this, even studies of opponents—you know, there is a study by the Economic Policy Institute which has been sort of one of the leading think tanks in opposition to NAFTA which conceded over the long term NAFTA was going to reduce immigration by I think 1.4 to 1.6 million, reduce immigration to the United States by that amount.

Mrs. THURMAN. What is that long-term period? Is it 10, 20 years?

Mr. YERXA. The year 2000.

Mr. WALTERS. Seven years from now, the year 2000.

Mr. FLAKE [presiding]. Well, Mr. Ambassador, I think we move—these discussions are fruitful. I think it is important that even in the process of globalization or whatever we call it, the new world order, since it is a part of that I suppose, but if that order is exclusive and not inclusive, it brings a level of pain that is already significant for a significant portion of this population. And with all of the promises, promise means nothing to hopeless people and persons in many of these communities have come to the point where they have lost all hope, and all of the promises in the world will not turn them; and good health care means a lot to most of the these communities, but it itself without what you define as integrated process, and I think it is important for all of us to try to keep that in that context, but for them, much of what we try to integrate is so exclusive already to them that they will not believe promises until they begin to see the realities.

And the realities have just not been there and I think we have to be very concerned. I guess I am getting the hammer here.

And I think we have to be very concerned that particularly when you use language like getting people out of the cycle of poverty in Mexico, and people here have to look at the Wall Street Journal article of a few weeks ago where particularly the African American community is steadyng on a slippery slope and seems to have no possibility of seeing an immediate possibility for economic participation, that is where I removed this whole word "social" from my vocabulary because it has to be an interest in and a full participation economically, and I think we have to move toward that, not just looking at Mexico.

But I do think we have to have—and I don't want you to even believe in leaving here that I am so myopic, so insular that I don't see the reality from an economic perspective of what this could do. However, I also see the reality of what it will not do for classes of people that have historically been left out and are right now sitting at the bottom economically.

And so, I would urge you from the platform on which you stand to take good positive strong positions for NAFTA, but even as you shape your arguments around these issues which you raise, remember that those arguments could be equally as important for a significant portion of this population here in America.

And I thank you.

Mr. YERXA. Congressman, I fully share your comments, and I think you could be assured that the President, who had every political reason for coming out against NAFTA, looked at this very, very carefully and ultimately came to the conclusion that NAFTA is concerning—

Mr. FLAKE. I hate to cut you off. I have 2 minutes to vote; therefore, the committee is in recess or adjourned, whatever.

[Recess taken.]

Mr. PETERSON [presiding]. The committee will come to order. I think we have a few more questions if you have time, Mr. Ambassador.

Mr. YERXA. Please, Mr. Chairman. Whatever you want.

Mr. PETERSON. I want to talk to you a little bit about this GSP situation. Are you familiar that a couple of days ago that they turned down a petition asking that Mexico be dropped from preferential treatment under GSP and Ambassador Kantor said the USTR will be publishing detailed reports explaining our reasons. Do you know what those reasons are?

Mr. YERXA. We have not published our report yet. We will be—I think that was the day before yesterday that that was issued.

Mr. PETERSON. When will that be available?

Mr. YERXA. I can check for you. I am not sure.

Mr. PETERSON. Does it have something to do with NAFTA that you are concerned about not stirring up the water with Mexico because of the NAFTA situation?

Mr. YERXA. No, I don't believe so. No. I think that the petition was examined on its merits.

Mr. PETERSON. You know, it is hard to figure out on what basis they rejected the petition on Mexico and yet they accepted it in the case of Costa Rica and Colombia. Could you edify us as to why?

Mr. YERXA. As I said, Congressman, those records are being finalized, I don't—let me just check for 1 minute.

As I said, they will be coming out in the next day or two and I can get you information on them. My understanding is that the—in the two countries in question, the petitions were very comprehensive, persuasive and the cases they cited represent a serious problem which we believe has to be investigated under the GSP law.

Mr. PETERSON. Well, this committee has heard some testimony of what we consider to be serious problems with Mexico and we would be very interested in knowing—I mean, we have suspicions of why we think this happened. I guess we would like to know your official reasons and be able to examine that if we could.

Mr. YERXA. They will be in the full explanation that will be made available to the committee.

[The information follows:]

Generalized System of Preferences (GSP)  
Subcommittee  
of the  
Trade Policy Staff Committee

1993 GSP Annual Review

Worker Rights Summary

Case: 013-CP-93

MEXICO

October 1993

GSP Information Center  
Office of the U.S. Trade Representative  
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## I. INTRODUCTION

On October 5, 1993, the United States Trade Representative announced that a worker rights petition filed in June 1993 by the International Labor Rights Education Research Fund (ILRERF) would not be accepted for review. The petition alleged that Mexico was in violation of requirements under Section 502(b) of the GSP (Generalized System of Preferences) statute which requires that it be "taking steps to afford internationally recognized worker rights to workers in the country."

In response to this petition, the interagency Subcommittee on the Generalized System of Preferences evaluated the worker rights laws and practices in Mexico raised by the petitioner as alleged violations of Section 502(b).

The GSP program, originally enacted in 1974, provides duty-free entry to eligible products for the beneficiary developing countries. The GSP legislation (Title V of the 1974 Trade Act, as amended) defines internationally recognized worker rights as follows:

- a) the right of association;
- b) the right to organize and bargain collectively;
- c) a prohibition against any form of forced or compulsory labor;
- d) a minimum age for the employment of children;
- e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

The Subcommittee noted that it is established United States policy that basic human rights are universal and that all governments are required to respect basic human rights, which include the first three cited worker rights, irrespective of social systems or stage of economic development.

The legislative history of the Generalized System of Preferences Renewal Act of 1984 indicates that Congress intended for level of development to be taken into account in assessing whether or not GSP beneficiary countries meet the "taking steps" standard. The 1984 report of the Committee on Ways and Means on the renewal act states that:

"It is not the expectation of the Committee that developing countries come up to the prevailing labor standards of the U.S. and other highly developed countries. It is recognized that acceptable minimum standards may vary from country to country."

In reviewing the petition, the Subcommittee examined the worker rights section on Mexico in the Department of State's Country Reports on Human Rights Practices for 1992, documents from the International Labor Organization from the International Labor Organization (ILO), reports from the U.S. Embassy in Mexico, published studies by the U.S. Department of Labor, and the previous allegations and Subcommittee findings in the lengthy 1991 petition filed against Mexico (Case: 001-CP-91 Mexico, November 1991), which was a petition by several individuals the ILRERF had joined in supporting, that was rejected.

#### Summary of Conclusions

The Subcommittee concluded that the information found in the petition was insufficient to provide a basis for a full review, noting also that some of the information referred to matters already covered in detail in the 1991 petition decision.

The Subcommittee recognized that there are examples of worker rights problems in Mexico, some of which are documented in the petition. These include ILO findings of violations of worker rights in the public sector; occasional examples of administrative barriers to freedom of association; and the need for improved enforcement of laws relating to child labor and worker health and safety. On the other hand, the Mexican Constitution and Federal Labor Law guarantee the right to form unions, to bargain collectively, and to strike for better working conditions. Mexican workers exercise the rights of freedom of association and the right to organize to a significant degree. Unionization is widespread in Mexico (about 30 to 35 percent of the workforce is organized in trade unions) and collective bargaining takes place on a regular basis, even in the public sector.

The Subcommittee recalled that the legal standard under GSP mandates that a country must be "taking steps" to afford internationally recognized worker rights. It was unable to conclude that a *prima facie* case was made by petitioner that Mexico is not taking such steps, notwithstanding certain shortcomings noted above. The Subcommittee noted that Mexico is taking measures to address worker rights problems both unilaterally and in cooperation with the United States. The negotiation of the North American Agreement on Labor Cooperation, as a supplement to the NAFTA, demonstrates Mexico's determination to improve its worker rights and provides the U.S. with a means for ensuring that Mexico continues to improve its labor standards. A number of measures are already underway to increase enforcement of child labor laws and of worker health and safety regulations.

## II. PRINCIPAL ISSUES

The GSP Subcommittee identified in the petition possible worker rights problems involving four worker rights categories listed in the GSP law: right of association, right to organize and bargain collectively, minimum age for the employment of children, and acceptable conditions of work.

### Rights of association and to Organize and Bargain Collectively

The right of association includes the right of workers to establish and join organizations of their own choosing. The right of association also includes the right to strike. For editorial convenience, in view of the intertwining of both concerns in the petition, the right to organize and bargain collectively has been included under this heading as well.

#### A. Legal Restrictions Imposed on Public Employees

The petitioner asserts that the Mexican Constitution and the Federal Law of Government Workers effectively deny or restrict the rights of public employees to, inter alia, negotiate collective bargaining agreements; strike; freely join, leave or establish unions; and reelect their union officials. The public employees in question include civil servants, public bank employees and university workers. The petitioner cites findings by the International Labor Organization to support its allegations.

In reviewing the issue, the Subcommittee recalled that the matter of possible violation of freedom of association for public employees was considered in the 1991 petition. It noted that the issue is not discouragement of public sector unionism since virtually the entire Mexican public sector has been unionized for many years. Rather, the issue is more narrowly focused, relating to legal impediments to competition among unions seeking to represent public sector employees.

Because it has ratified ILO Convention No. 87 (Convention Concerning Freedom of Association and Protection of the Right to Organize of July 9, 1948), Mexico's law and practice concerning freedom of association and the right to organize is regularly reviewed by the independent ILO Committee of Experts (COE) on the Application of Conventions and Recommendations. For over a decade, the COE has called on the Government of Mexico to amend several legal provisions which, in its view, limit public employees' freedom of association. In particular, the COE has taken issue with the establishment by law of a single trade union system in the public sector, noting that trade union plurality or monopoly should always remain the decision of the workers and their unions. It has also stressed that the unions themselves should be able to determine rules regarding the election of union officials, and that

the government should not interfere in a any worker's right to join or leave a trade union organization.

While the COE has raised some important concerns about freedom of association in the Mexican public sector, it is important to note that during this same period, the COE report has not raised any questions about Mexico's federal labor law governing private sector workers. Moreover, the issues raised by the COE have not been addressed in the tripartite Committee on the Application of Standards of the ILO Conference, which focuses on what it considers to be the most crucial violations of ILO conventions. Nor has any Mexican or international trade union organization, for at least the past seven years, filed any formal complaint alleging the infringement of trade union rights with the ILO's special supervisory machinery on freedom of association.

With respect to the right of public sector unions to bargain collectively, the Subcommittee noted that Mexico's public sector unions and their federation (FSTSE) do, in fact, bargain collectively with management on terms and conditions of labor in the public sector, and the federation is able to negotiate to a limited degree with management on proposed changes in pay scales for public sector employees. When, for example, in 1991 and again in 1992 a decision was reached on increasing teachers' wages following lengthy management-union discussions, the announcement was made jointly by leaders of government and the teachers union. Similarly, the teachers union (SNTE), the largest in Mexico, was heavily involved in shaping the government's major policy changes to turn over the administration of public education to the state governments and to increase mandatory education from six to nine years in 1993.

#### **B. Administrative Barriers**

The petitioner asserts that Mexican workers "are marginalized through regulations that establish procedures for the administration of the (labor) law." The Mexican administrative practices in question include:

- (1) collective agreements in which workers have been excluded from the negotiation process;
- (2) union registration requirements; and
- (3) judicial (sic) control of unions through the periodic recognition of union directors.

#### Collective Bargaining Agreements

Mexican practice in various respects is different from that followed in the U.S. In Mexico, management must negotiate a collective bargaining agreement with its recognized union, and such agreements must incorporate legal requirements such as annual revisions of financial terms (wages and fringe benefits). Copies

of all contracts and their revisions must be filed with the labor authorities. The fact that contracts are negotiated by union lawyers rather than union contract committees, whether or not desirable from the U.S. perspective, is not necessarily a violation of an internationally recognized worker right.

#### Union Registration Procedures

The Subcommittee confirmed that Mexico's Federal Labor Law (FLL) requires registration by unions and labor centrals to legitimize their existence. This permits unions to legally collect monies, possess property and bank accounts, or make contracts, including collective bargaining agreements. The Country Reports on Human Rights Practices for 1992 indicates that there may be some merit to repeated allegations by certain trade unionists that registration requirements have been used to block formation of dissident unions. However, there is no evidence of an overall intent by the government of Mexico to use these procedures to impede unionization.

The petition cited one example to document its allegation that these procedures impede formation of unions. In the case of FESEBES, a new labor federation, registration took over two years to complete, which appeared unduly long. Government officials denied any wrongdoing, citing cumbersome factual submissions, many requiring updates, for the delay.

#### "Judicial" Control of Unions

The petition alleges that the government misuses the requirement to notify the authorities about changes in union leadership as a means of perpetuating the "juridical control of unions," presumably meaning administrative law control insofar as the obligation to report changes in union leadership is to the labor authorities rather than to the courts. However, it was unclear exactly what this allegation meant, since it lacked supporting evidence of abuses.

#### **C. Political Barriers to Freedom of Association**

The petitioner alleges that workers incur "forced affiliation" to the ruling party, the PRI, and are required to join one of the unions affiliated with the Confederation of Mexican workers (CTM). According to petitioner, this process allows the government to continually interfere in the internal life of the unions and to subordinate them to the government's policies.

This complaint was addressed in the Subcommittee's consideration of the 1991 petition and the current submission does not offer substantively new evidence about union affiliation with the PRI. The union/PRI link is not iron-clad, and there is evidence that the link has recently been weakened. The Subcommittee notes that,

while the CTM is the biggest of the 37 CT members, it is only one of the CT labor centrals or autonomous unions. Not all the CT members are formally or even informally affiliated with the PRI, although most are. In May 1992, Mexico's largest single union, the teachers union, SNTE, formally dissolved its relationship with the PRI and declared itself politically unaffiliated.

The PRI itself eliminated party membership through union membership in a 1990 PRI internal reform, requiring instead that workers join the PRI individually. While Labor Congress labor federations and unions represent possibly as high as eighty-five percent of all organized workers, many apolitical unions exist and play an important role. In the important industrial state of Nuevo Leon, unions affiliated with the non-CT and politically neutral National Federation of Independent Unions (FNSI) represent an estimated seventy percent of workers in collective bargaining agreements. In short, while there are clearly close connections between the PRI and many unions, the existence of a variety of non-PRI affiliated unions belies the allegation that affiliation is necessarily forced.

#### **D. Judicial Barriers**

Petitioner claims a lack of autonomy in the administration of labor justice by the Federal Board of Conciliation and Arbitration (JFCA), as well as by the National Minimum Wage Commission. In short, petitioner asserts the government controls the selection of the union members of these tripartite institutions.

The petitioner provided limited evidence to document the allegation that "since the government and labor representatives are members of the PRI, the government is in effective control of the commissions." There is no compelling evidence that the JFCA and state boards have a systematic anti-union bias. Reporting from the U.S. embassy suggests that they may have a pro-union bias, as was intended by the original legislation of the 1930's.

#### **E. Official Threats and Violence Against Organized Workers**

Petitioner alleges government intimidation of unions to assure "alignment with the government's policies." Various forms of pressure are cited, including declaring a strike illegal, followed by outright liquidation of a company, and the firing of workers. As examples of these practices, the petitioner cites various cases, including the National Institute of Nuclear Energy, Aeromexico, Tepepan, Cananea mining Co., Maquiladora workers, etc. No factual discussion of these cases is included by the petitioner to substantiate the allegation.

The Subcommittee noted that most of this information was previously considered in connection with the 1991 petition. As in 1991, petitioner continues to rely on the published work by Dan La Botz's

(Mask of Democracy) to substantiate past cases of supposed intimidation of workers. This work has not been updated since the previous consideration, and no new evidence has been presented by the petitioner.

#### F. Repression of Labor Lawyers and Labor Leaders

Petitioner cites the arrest of Matamoros labor leader Agapito Gonzalez Cavazos, the Aguiles Magana case in Tabasco State, and the case of Aquiles Magana's lawyer, Joel Garcia, as examples of repression. These examples raise a number of questions of possible repression of labor leaders, but the petitioner does not provide documentation showing they constitute a pattern of abuse.

The Subcommittee found that there is no conclusive indication, from all available information, that the arrest in January 1992 of Matamoros labor leader Agapito Gonzalez Cavazos occurred as a result of collusion between the government and the Matamoros Maquiladora Association. It is possible, though it cannot be proved, that there might have been a link between Gonzalez, trade union activities and his arrest.

The Aguiles Magana case appears to have been influenced by local political factors, and it is not clear whether this is a question of repression as claimed by petitioner.

The cases of Joel Garcia, Estella Rios, Maria Eugenia Meza, and Emilio Miron appear to be isolated incidents of violence involving labor activists, each of whose status, purpose and mandate was not always explained by petitioner.

#### Minimum Age for the Employment of Children

Petitioner alleges that child labor is widespread in Mexico, due in large measure to the authorities' "willingness to look the other way."

Petitioner relies on a published work by Dan La Botz and a study report by the Tri-National Project on Children's Rights and Economic Integration to substantiate the allegation of widespread child labor in Mexico. No specifics are given in terms of particular industries or sectors of the economy. No detailed documentation is provided to support the allegation.

The Subcommittee found that the Mexican government is aware of the existence of illegal child labor and is taking measures to address it within the context of limited resources. It concluded that the documentation provided by the petitioner does not sufficiently substantiate the allegation of child labor abuse in relation to government policies.

The Subcommittee noted that the question of the extent of child labor in both Mexico and the United States was studied jointly by the U.S. Department of Labor (DOL) and Mexico's Secretariat of Labor and Social Welfare (STPS), whose findings were published publicly in 1993 by DOL under the title of A Report on Child Labor In Mexico and the United States. This study resulted from the cooperation program launched in May 1991 between DOL and STPS in which striving jointly to address child labor problems in both our countries is a key objective. In another major indicator of Mexico's willingness to address alleged violations of its own strict child labor laws, Mexico joined with Canada and the U.S. in signing the North American Agreement on Labor Cooperation on September 13, 1993. One of the agreement's objectives is the enforcement of national labor laws, including those on child labor, through a Commission for Labor Cooperation that will be established, under the agreement's provisions. This entitles the USG to raise perceived child labor problems in Mexico and Canada for investigation and, in extremity, to seek imposition of penalties by the Commission.

#### Acceptable Conditions of Work

Minimum Wages: Petitioner claims that Mexico has one of the lowest minimum wages in the world and blames structural adjustment policies for lost employment in the public sector, lost-purchasing power, decrease in worker benefits, and an increase in prices of basic goods.

The Subcommittee found that Mexico's low minimum wage is in large part due to measures taken to recover from the 1982 economic collapse. The National Minimum Wage Commission feared that raising the minimum wage to recover lost purchasing power would trigger an inflationary spiral. Since the mid-1980's, average real wages (adjusted for inflation) in manufacturing have been recovering, and, from 1987 through 1992, rose at virtually the same rate as increases in national productivity (129 and 125 percent, respectively). Only minimum wages failed to recover lost purchasing power.

On August 13, 1993, Mexican President Salinas directed that the National Minimum Wage Commission should include in its annual minimum wage adjustments both the projected inflation rate and, as an additional component, the national productivity increase for the year. Senior Mexican finance and labor officials have since indicated that henceforth the national minimum wage will begin recovering lost purchasing power. Spokespersons for government, organized labor and employers, moreover, stated on October 4, 1993 that their respective representatives would be instructed to endorse including productivity adjustments in minimum wage increases when this presidential proposal is raised at the National Minimum Wage Commission. The government also has stated it will

introduce legislation to eliminate income taxes on persons earning two minimum wages or less, thus raising their incomes by seven to eleven percent, and to reduce income taxes on persons earning between two and four minimum wages.

The Subcommittee, in conclusion, noted that there has been a problem of inadequate minimum wages since 1982, and that there are differences of opinion as to how justified the government has been in waiting for better economic conditions, especially bringing inflation under control, in providing an adequate remedy. At the same time, the Subcommittee also noted that the government now is taking substantial remedial measures, and doing so in consultation with the U.S. and Canada in the spirit of the recently concluded North American Agreement on Labor Cooperation.

Health and Safety Conditions: Petitioner claims there are "(g)rotesque inhuman living and working conditions for workers in the maquiladora plants along the borderer."

Available evidence indicates that working conditions in some maquiladoras are adequate-to-good. The greatest problems generally are in Mexican-owned and older plants, and those in the textile industry. DOL/OSHA and STPS have been cooperating on mutual worker safety and health concerns since the beginning of the 1991 DOL-STPS understanding on labor cooperation. In 1992 DOL published the joint DOL-STPS study entitled A Comparison of Occupational and Safety and Health Programs In The United States And Mexico: An Overview. This study summarized and compared safety and health systems in each country.

Since late 1991, OSHA has been assisting STPS and Mexico's social security agency, IMSS, in a outreach program for the maquiladora associations throughout northern Mexico to help ensure full compliance by Maquiladora plants with Mexico's health and safety standards. In September 1992, DOL/OSHAS and STPS agreed to a number of new worker health and safety standards that both Mexico and the U.S. will seek to implement over the next few years. DOL and STPS also began a program of special technical seminars for U.S. and Mexican safety and health experts on a tripartite basis (government, labor, and employers) for industries with high hazards or other elements of special interest to both countries.

The Commission for Labor Cooperation, to be established under the September 1993 North American Agreement on Labor Cooperation, has as one of its key objectives the promotion and enforcement of national workplace safety and health standards through the cooperative action of the Mexican, U.S. and Canadian governments. The USG will be entitled to seek the investigation by Commission experts of perceived violations of national workplace safety and health standards in Mexico and Canada and, failing satisfactory remedial action in proven cases of inadequate compliance, to ask the Commission to impose penalties.

III. RECOMMENDATION

In determining whether or not to accept a petition to review a country's worker rights practices, the GSP Subcommittee needs to determine whether there is credible and sufficient information to indicate that a country may not be taking, or may not have taken, steps to afford internationally recognized worker rights, as required by the GSP statute.

In the case of Mexico, the Subcommittee found strong evidence, implicit even in part of the petition, that Mexico is taking measures to meet international labor norms of law and practice.

Mr. PETERSON. We appreciate that as soon as we can get it.

In terms of this side agreement, we just—you know setting aside how good they are or how comprehensive they are and so forth, there is also I think a question about how seriously these are being taken. We have read some press reports that make you wonder.

Without objection I will put into the record a news article which quotes Mexico's Commerce Secretary—I can never say his name—Jaime Jose Serra Puche, telling the Mexican Congress that, "the time frame of the process makes it very improbable that the stage of sanctions could be reached."

So when people in positions of authority make those kinds of statements, you know, it makes some of us wonder how much teeth are really in these side agreements.

[The article follows:]

Journal of Commerce NO. 566 8/20/93 p. 34

# Mexico Official Defends Nafta Dispute Process

By INGRID NEGRETE

Special to The Journal of Commerce

MEXICO CITY — Mexico's Commerce Secretary Jaime Serra Puche staunchly defended what he called the "exceedingly long" dispute resolution process in the proposed North American free-trade agreement.

In an appearance before the Mexican Congress Tuesday, Mr. Serra Puche stood firm against state senators who expressed concern about the monetary penalties and trade sanctions Mexico agreed to accept as punishment for any failure in the future to comply with its own own labor and environmental laws.

The penalties and sanctions are part of supplemental agreements negotiated by the United States, Mexico and Canada to protect workers and the environment once Nafta is implemented.

In his arguments, Mr. Serra Puche claimed that labor rights as such would not be subject to enforcement action by the trilateral commissions established by the side accords. Moreover, he said the fines and sanctions are "not traditional trade sanctions."

In an apparent attempt to address concerns about national sovereignty and the amount of fines that may accrue to Mexico under the agreement, Mr. Serra Puche emphasized the limited scope of the trilateral commissions' powers, and the lengthy and complex process needed to reach and implement enforcement recommendations.

"The time frame of the process makes it very improbable that the stage of sanctions could be reached," he said.

He repeatedly sought to calm the lawmakers' fears that environmental fines could add up to considerable sums of money.

"In terms of numbers per indus-

'The time frame of the process makes it very improbable that the stage of sanctions could be reached.'

— Jaime Serra Puche  
Mexican Commerce Secretary

try, we have more environmental inspectors in Mexico than those in the U.S. and Canada," Mr. Serra Puche said.

In the United States, meanwhile, President Clinton Thursday announced lawyer William Daley, brother of Chicago Mayor Richard Daley, as his choice to lead the administration's effort to get Nafta through Congress.

The agreement is expected to pass the Senate, but opposition from Democrats will make passage difficult in the House.

Mr. YERXA. I understand that, Congressman. Let me say a couple of things. First of all, of course, he has a domestic political system to deal with.

He has to explain to his politicians why he agreed to certain things. We do not believe that we are disadvantaged in that dispute process at all.

It is very similar to other dispute procedures we have had under trade agreements in which we have been able to get to a sanction where no remedy was forthcoming by the country or no remedial action was taken. Now it is true there are a number of steps to go through.

But that is true in a domestic legal procedure as well. After all, you can't expect not to have some kind of a fair process whether or not there is, as called for under this agreement, a persistent pattern of nonenforcement. You have to have some fair process for deciding that. The important thing is that each step of that process involves a clear obligation on the part of the country to demonstrate how it was complying, and if it fails to demonstrate ultimately you get to the point of sanctions.

The purpose of this agreement was not to have sanctions. The purpose of this agreement was to have enforcement and we believe it does that very effectively.

Mr. PETERSON. One other—you know just assume when the process works and people are saying it is so convoluted, it is hard to get through it, but saying it does work and that sanctions are imposed because there is some failure, it is my understanding that the fines aren't levied against the companies that are violating these laws, that rather the government, the taxpayers pay this penalty.

Mr. YERXA. That is correct.

Mr. PETERSON. Why are we doing it that way?

Mr. YERXA. The obligations that we are talking about are the obligations of the government to enforce the law. This is an intergovernmental agreement.

Mr. PETERSON. The government would impose this against the company. Why are we letting those companies off the hook?

Mr. YERXA. We didn't want to enter into an agreement which would allow Mexico and Canada's labor ministers to impose fines on our companies. We weren't about to sign that kind of an agreement. What we were ready to sign was an agreement whereby if the government fails to enforce its laws and if there is a persistent pattern of failure to enforce by the country itself, there will be monetary consequences for the country which will then go into a fund that can be used for purposes of improving that situation.

The reason I think that makes sense, Congressman, is that while we wanted to get enforcement and real teeth and real sanctions where there wasn't enforcement, we weren't about to let the labor ministers of Mexico and Canada impose fines on our companies.

Mr. PETERSON. Another concern is whether we are going to be able to get enough information to be able to tell what is going on under the agreement. Evidently it says the parties must rely on publicly available information and we have been told that this is the type of information that is available under our Freedom of Information Act.

What is Mexico's equivalent of Freedom of Information Act? Do they have some equivalent process to what we have?

Mr. YERXA. They do not have a strict—something that is strictly like our Freedom of Information Act. But the term that is actually used in the supplemental agreement is broader than that. It is publicly available information and that is defined in the agreement.

It is defined as information which the public has a right to obtain access under the laws of each country and while they don't have a FOIA, Mexico does have their article VI of their constitution, which provides a right to information, and if they don't provide that information, and many of these things, for example, judicial determinations and the like, are publicly available as are decisions of their conciliation and arbitration boards, we have scope under the agreement to go seek that information from other sources, and to obtain it from other publicly available sources.

Mr. PETERSON. Mr. Shays, do you have any additional questions.

Mr. SHAYS. I am happy to give you some more time if you would like to ask some. I don't have many questions.

Mr. PETERSON. OK. The administration's July 1993 publication on NAFTA says that for those workers who may face job loss, the Clinton administration is committed to having a strong, fully-funded workers' adjustment program. Where is that at?

What is your estimate of the cost of such a program?

And where would the money come from?

Mr. YERXA. Congressman, as we have said on many occasions that we are convinced from virtually every analysis that we have done that NAFTA is going to produce a net gain in employment in the United States and is actually going to provide us the kinds of opportunities that will reduce some of the job dislocation costs we have now. Nevertheless, the administration is fully committed to a worker adjustment program, and to ensure that no job loser would face unaided the challenge of adapting to a new situation.

The markup on this issue will begin in the committees in the next week or so. We have—

Mr. PETERSON. Is there a proposal on the table?

Mr. YERXA. We have had preliminary discussions with the committees. I want to emphasize that in part we wanted to be sure that the proposal we are fashioning is something that will enjoy support in the Congress, so Secretary Reich, the Labor Department, have been consulting closely with the committee, the Education and Labor Committee, the Ways and Means Committee.

Mr. PETERSON. What about that?

Mr. YERXA. I think what the Secretary wants to see ultimately is a comprehensive worker adjustment program that deals with all aspects no matter why jobs are being lost in our economies, but there is a need for a bridge program here that would be there to assure that any NAFTA-related dislocations—and once again let me emphasize we believe those will be exceedingly small, particularly in the early years of the agreement.

Mr. PETERSON. Would that be similar to the trade adjustment assistance program?

Mr. YERXA. That will be available to target NAFTA dislocations.

Mr. PETERSON. So it would be similar to the trade adjustment assistance program?

Mr. YERXA. That is one of the aspects we are looking at in talking to the committees about it. That is one possibility.

Mr. PETERSON. Why are we reading these accounts that they are going to put this on hold and extend the Trade Adjustment Assistance Act so they can avoid the Education and Labor Committee? There has been a couple stories that have said that that is going to happen. Why are stories like that showing up?

Mr. YERXA. Let me just consult for 1 minute here with people from the Labor Department. I don't believe those stories are accurate.

Mr. PETERSON. But they have been in our daily publication a couple of times. They have been in there already.

Mr. YERXA. Well, you read a lot of things in the news. I am told that the Labor Department is consulting with all of the respective congressional committees on the best way to do this. The package, the administration has not formally proposed a package because of that consultative process, but you know we are going to start the markup on this bill in the next week or so, so obviously there will be.

Mr. PETERSON. And you will do it in Education and Labor?

Mr. YERXA. I can't—

Mr. PETERSON. There was some talk it was going to be held in Ways and Means and they were just going to try to expand the Trade Adjustment Act, thereby avoiding all these other committees.

Mr. YERXA. As I said, there have been a number of possibilities discussed. One is to look at TAA. Another is to look at increasing the available appropriations under the EDWAA program. Another is to look at a new kind of comprehensive program, which Secretary Reich is working on, to propose to the Congress. I want to emphasize that the important thing here, Congressman, is the commitment of the administration to have a fully-funded program available.

Mr. PETERSON. Are you familiar with the report that just came out from the IG on the Trade Adjustment Assistance Systems Program saying it was an ineffective waste of the money. Have you seen that?

Mr. YERXA. I have not.

Mr. PETERSON. It said only 3 out of 10 participants found new jobs and that was only with potential pay of 80 percent of their former wages; so basically it said that the money was being wasted. It is very troubling to this Member and this committee if we are going to be looking at that as the solution when we are being told that it is not working at the present time. Just take that under advisement. I think you folks ought to look at that before we get too far down that road.

Mr. Shays.

Mr. SHAYS. One of the biggest challenges for a Member of Congress and other people who have to make decisions like this is we look and know pretty certainly that there will be a net gain in jobs, but that is net. So there is going to be a significant increase in jobs but there is going to be a noticeable loss of some jobs and we make the argument that the jobs that will be created are higher paying

jobs. I happen to agree with Mr. Peterson that some of the government programs to come in areas where there is a loss of jobs don't work all that well.

So I would love for us to put our heads together to figure out what we can do, because if we are just training people for jobs that don't exist, but that still doesn't get down to the issue of how a Member should vote. If I am in my own district and I am seeing a lot of people losing their jobs, I think I have to speak out strongly for that.

The question is what should other Members do for the overall good? I mean I can't imagine what it must be like for a general to decide that he can send a small group of troops in one way and know that he is going to lose a number of them, but he is going to save a lot more and win the war by doing that.

That is a very calculated decision, but in a way—I feel I have to tell you that is the kind of decision I am being asked to make. What is in the ultimate good for our country now and in the future, but it still doesn't get around the very real argument that in Mr. Peterson's district and some other districts there may be some real loss.

The challenge to us as proponents of NAFTA is what to do to deal with that. I have to tell you I am not impressed with what I have seen in the books to deal with it.

Like Mr. Flake, I have been told in urban areas and you are telling me the areas you represent, which isn't an urban area, you are seeing a challenge. I can speak for my area, Bridgeport, CT. As the economy improves, I am being told by the experts in Bridgeport and other urban areas, because the businesses say we have got this new product line and we need it, they are going to say let's not build in this environmental challenged area with crime. They are going to go out.

It seems to me we need a very proactive measure with enterprise zones and so on to get people to build. I would think, for instance, in the enterprise zones that the Federal Government is contemplating that fact one of the areas they should put the biggest weight is where NAFTA might have the most negative impact because that to me is how you are going to see some benefit.

I guess one of my requests would be—since any question I would ask you is going to be a layup. You do better when I ask you tough questions. I agree with you so much that what is the point?

But I am just sharing with you that as a strong proponent of NAFTA, I feel that the argument you focused in on, that some urban areas suffering, and some rural areas suffering, and two, that the programs we have to deal with those areas are kind of make work, not significant. That to me would be an area that we could explore, such as economic development block grants in hard-pressed areas for rebuilding infrastructure, creating industrial parks, making it more attractive for businesses to come there instead of suburban areas, the enterprise zone concepts that the administration is moving toward and focusing it to where NAFTA would be negatively impacted.

I would just make one last comment. I am not looking to have the last word because I am happy to go back to you. When I hear the comment that, we don't have the right to interfere in the Mexi-

can Government as much as we would like to, I do know that the proponents of that view would also not want Mexico to interfere with us. And I think the administration was right on target, and Canada, as well, in saying that, no, we are not going to have the Mexicans tell us what to do.

I had a Mexican say to me, let me get this straight, you don't like our labor laws; I understand you don't like some of our environmental enforcement, not our laws but our enforcement, well, I don't like the way you enforce crime. I walk in DC and there are 17 murders in 1 week. In 1 week, 17 murders and you know that to me is a human rights issue, as much as anything else is.

We haven't come to grips with so many. When we went to Bogota to thank the Colombians for the fact that they just had their DAS building, their FBI building, in essence, blown up, 700 people injured, 70 killed, and they say you are mad at us because we export the drugs; well, we have a problem with the fact that you in the United States export the money to buy the drugs, you export the guns to protect the war lords, and you export the chemicals to make the drugs.

What I am trying to say is when we put ourselves in their position, they have reason to look and say maybe what you do in this country isn't so great either. And so maybe somewhat of a digression, but I guess—not I guess, my point is that I am grateful that the administration did not allow the Mexicans to interfere in our government and I am grateful that we have the ability to—if NAFTA passes, to have some impact particularly with those companies that are Americans that will be there.

Mr. YERXA. Could I, Mr. Chairman?

Mr. PETERSON. Sure.

Mr. YERXA. A couple of comments, and by the way, I want to say at the outset I am obviously not an expert on worker adjustment, on worker training, on that aspect of this entire picture. I think it would be extremely important for the committee to hear from Secretary Reich from the Labor Department and from others in the government who have spent a lot of time looking at this.

I think there is general agreement in the administration with many of the points you made about the need for a better, more efficient, more comprehensive program. You know, one of the unfortunate things about NAFTA is that it really has been kind of blown out of proportion by both supporters and opponents.

The fact of the matter is we have an economy in which millions of jobs are changing hands every year. Even the most exaggerated predictions, setting aside for a minute the kind of absurd Perot argument that 5.9 million jobs—

Mr. SHAYS. Can I ask you about that? If there were 5 million, what would that mean in terms of the GNP?

Mr. YERXA. We did some rough calculation. In order to lose 5.9 million jobs to Mexico, we would have to have a shift with our trade balance with Mexico of about \$300 billion.

Mr. SHAYS. What is our trade imbalance with Japan?

Mr. YERXA. It is about one-seventh of that—one-sixth of that. I am sorry.

The point—that would be a trade deficit equal to Mexico's entire GNP, so I think you can see that—I mean, for example, he moved

1.2 million printing jobs to Mexico. We have a lot of printing and publishing jobs in the United States. The thing is there are no duties on printed or published materials in the United States, so NAFTA doesn't effect any change, whatsoever.

He moved airplane manufacturing. He moved bread baking and everything. But if you look at the rational studies that have been done, they predict—you take sort of the average of all the studies. They predict modest job gains but also fewer—but also modest job losses.

My point is in an economy where millions of jobs are changing all the time, we need a comprehensive program that works, that delivers real training, delivers income maintenance, delivers other things to affected individuals and communities. And there are a lot of inefficiencies in the current system and you pointed to that concern, Congressman, a lot of administrative and bureaucratic inefficiencies.

Mr. SHAYS. Could I just interrupt you a second and make one point? I think you are missing the point that I was trying to make and you have a different point.

Mr. YERXA. I said I wasn't an expert.

Mr. SHAYS. It doesn't have anything to do with the expertise. I am not making myself clear.

I believe the best way to help people who are going to lose jobs with NAFTA is not to train them to do a job that doesn't exist. What I am trying to say is we need to identify where the growth is and encourage those growth businesses, through incentives, to locate in the areas where there is job loss. And I would rather spend my government money encouraging businesses to locate there. That is the point I am trying to make.

Mr. YERXA. I understand. It is not so much the worker training aspect you are focusing, it is the job creation and job location.

Mr. PETERSON. It is a very hard thing to do.

We are going to have to wrap this up. I would like Mr. Shays to hear what I have to say.

Mr. SHAYS. I just want to thank you for your patience with all of the members and the way you have conducted this hearing and your openness.

Mr. PETERSON. There are some other questions that will be submitted I would like you to answer. I would like to say I represent a rural district. We have the same kind of problems that Mr. Flake has in an urban district.

We have been on this track of world competition with agriculture, which I think is a mistake. I think that it is wrong for us to put agriculture and energy into a global market place. I think is a dumb national security policy—from a national security point of view, I think it is not a smart thing to do.

I have a full-time person on my staff trying to encourage economic development in my district. Because it is not happening. And it is very hard to get these big companies to come out to a rural area. We have all kinds of people who know how to work, who work cheap, you know.

And it just is very hard to make this happen, and I am very skeptical that the government can come up with any kind of program to do a whole lot about this. I mean, I am very skeptical of

all of these rural development programs, and economic development programs, and we have had them and they are largely window dressing and they largely don't work.

And one of the problems that—and I don't know how we deal with this—but one of the problems that we have is that part of our economy is affected by all of this global competition and part of it isn't. And we have got this problem within our society where the people that aren't affected are getting these huge increases in income and charging the people that are affected and it just doesn't work.

For example, my farmers are getting less money for their wheat today than they got in 1949. Yet they are paying their lawyers 20 times what they paid them in 1949 or their CPAs or the machinery dealer, you know, and it just doesn't work. There is not enough money to make this go around anymore, and I try to tell these people that were so gung-ho about free trade that maybe the solution to bring everybody down to reality is to put everybody into the world market. And one of the things my staff does—I don't want to get on my soapbox—is determine what the world price of lawyers and doctors would be, and we went out and surveyed all these countries and we averaged it and found out that if we had a world price for lawyers and doctors, it would be about 18,000 a year that they would make.

Mr. SHAYS. I would like to add, I think it is a good idea.

Mr. PETERSON. Then if that was how we did everything, we could live with this, you know. And so I don't know if we could ever, you know, accomplish getting lawyers down to \$18,000. If we could, it may be cheaper to hire, but one other advantage, I thought if we could do that we might possibly be able to export them and send them to Japan and some of these other countries and make them muck up their economy. And I don't know how we get at this basic problem, but generally agriculture areas have been in favor of trade agreements but that is changing.

And you see almost universal opposition on the northern border because of what happened to the Canadian agreement. To us who represent rural and agricultural areas, we are particularly offended that the NAFTA did not deal with agriculture, like it was in the rest. We do not have a three-way agreement in agriculture.

I don't know if you are aware of that. The Canadians refused to negotiate and so we are going to have two bilateral agreements. So agriculture is not a three-way agreement. That is another problem we have; and the reason is that the Canadians didn't want to put these issues that they got—they took us to the cleaners on—back on the table.

So I—we sincerely want to have an agreement with Mexico, but we just have a lot of problems with the way this was negotiated, with some of the decisions that were made and I, frankly, think we could have done better. I know that is not your fault. You weren't there. You didn't negotiate it. You are trying to fix it.

One last thing that I wanted to ask you about. Yesterday I heard about "side letters," for those people that are trying to make up their mind. First, they said we got to see what the side agreements are. Then some of them decided. Now these undecided people are telling us that they are waiting to see the side letters. What are

the side letters? Do you know what they are? Are there such a thing? Is there going to be another kind of—

Mr. YERXA. I am not sure what people you are referring to, Congressman.

Mr. PETERSON. These are Members of Congress that are now telling my whip organization that they are waiting for the side letters to come from the administration that are going to define some of these areas that weren't defined in the side agreements.

Mr. YERXA. There have been a number of groups which have talked to us about whether or not they would want clarifications.

Mr. PETERSON. Who would they be binding on? Would the Mexicans or the Canadians agree to these or how would that work?

Mr. YERXA. Well, the way a side letter to an agreement would work, it would be an exchange between the governments about either an interpretation of the agreement or—

Mr. PETERSON. So there are side letters being considered?

Mr. YERXA. Believe me, if we had them, you would know about them. We have been talking—

Mr. PETERSON. Why were Members telling—

Mr. YERXA. Well, I can give you good examples. A number of Members have come to us about agriculture concerns. A number of Members have come to us about concerns relating to tariff acceleration.

Mr. PETERSON. Why weren't these things dealt with? We have been through a side agreement process? Why weren't they dealt with there?

Mr. YERXA. Those were negotiations on the specific side agreements that the President said that he needed—

Mr. PETERSON. No. But the President at one time said they were going to consider—

Mr. YERXA. No. He mentioned issues. He mentioned environmental—

Mr. PETERSON. I have a copy of a speech where he specifically mentioned two agricultural areas that were going to be dealt with and they were—

Mr. YERXA. He mentioned import surges.

Mr. SHAYS. Was that during the campaign?

Mr. PETERSON. I can't keep track of all of this.

Mr. SHAYS. Well, that matters.

Mr. PETERSON. I guess we probably better wrap this up, but we appreciate your being with us here today.

Mr. YERXA. Thank you, Congressman.

Mr. PETERSON. The subcommittee will stand adjourned.

[Whereupon, at 12:30 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



## APPENDIX

### MATERIAL SUBMITTED FOR THE HEARING RECORD

# Economic Policy Institute<sup>1</sup>

1730 RHODE ISLAND AVENUE, NW • SUITE 200 • WASHINGTON, DC 20036 • 202/775-8810 • FAX 202/775-0819

The Honorable William H. Zeliff  
224 Cannon House Office Building  
Washington, D.C. 20515-2901

October 25, 1993

Dear Congressman Zeliff:

This will reply to your letter of September 16, 1993.

1. Since Nafta will further eliminate trade barriers, you ask how can I maintain that the trade agreement is bad for this country?

Response: Nafta is more than a trade agreement. It is, as well, an agreement that regulates investment (Nafta, Chapter Eleven, Investment; Chapter Seventeen, Intellectual Property). The judgment as to whether Nafta is good or bad for this country comes down to a judgement as to whether the additional incentives in the Nafta for American companies to relocate plant and invest in Mexico to produce goods for export back to the United States will lead to substantial job loss in the United States. And whether such job loss will outweigh the likely job gains from additional exports to Mexico that are likely to result from lower Mexican tariffs.

The argument is frequently made by proponents of the Nafta that American companies can invest in Mexico without the Nafta. This is true, but the Nafta creates additional powerful incentives for such investment. In the past, American investors have been deterred from investing in Mexico because of the unreliability of Mexican rules governing investment. The Mexican government sought to overcome such doubts by administratively relaxing requirements relating to percentage of foreign ownership of assets, required domestic local content and export of production. But this relaxation could as easily be reversed by subsequent Mexican administrations.

Moreover, administration of the rules was often subject to corruption and extortion. Chapter Eleven of the Nafta prohibits such restrictions on investment. And the intellectual property rights chapter of the Nafta requires Mexico to conform its legislation and practices to an international standard more acceptable to the United States. The protection afforded the property interests of American corporations is in striking contrast to the failure in the labor side agreement to protect internationally recognized worker rights. (See reply to your

questions # 4 & 5). It is that imbalance in the Nafta, and related labor side agreement, that is so objectionable.

Your reference to 700,000 jobs that are supported by trade with Mexico is misleading. Consider the way in which the 700,000 number is derived. The Commerce Department estimates that each \$1 billion of US exports supports 17,000 jobs. Since the US exported \$40.6 billion of merchandise to Mexico last year, this figure is multiplied by 17,000 to arrive at 700,000 jobs supported by exports.

The reality is far different. \$21 billion of the \$40 billion in US exports to Mexico last year represent parts and components which are "industrial tourists", that is they stay in Mexico only a short time before they are reprocessed or assembled into goods which are exported back to the United States. Of this \$21 billion, \$14 billion represents the maquiladora program and an additional \$7 billion is accounted for by a new Mexican program called PITEX, a Mexican government acronym for Temporary Import Permits for Export Products. Thus approximately half of the claimed jobs derived from American "exports" to Mexico are not due to any consumer or capital goods exports for Mexican consumption in Mexico but are turn around assembly and reprocessing operations that come right back to the United States; they have very little to do with new exports to Mexico and job creation in the United States. (See Testimony of Professor Harley Shaiken, University of California, Berkeley before the House Subcommittee on Commerce, Consumer Protection and Competitiveness, September 23, 1993 at pp 9-10).

Moreover, extrapolating future export growth from the recent past is highly misleading. Most professional experts that follow Mexico's economy are in agreement that the Mexican peso is overvalued by anywhere from between 10 to 20 percent related to the US dollar. The Mexican government has recognized this disparity, but for political reasons it resists a devaluation of the peso in the months before the runup to the Mexican Presidential election in the summer of 1994. It has decided upon a policy of slowing the Mexican economy to wring inflation out of the system. This slowdown has resulted in a 1.3 percent rate of economic growth in the first half of 1993, far below what was anticipated, and a commensurate drop in the rate of US export growth to Mexico. The U.S. trade surplus in the first 8 months of this year was less than half its size the previous year. Most observers expect a devaluation of the peso after the Mexican Presidential elections. A devaluation of only 10 percent in the peso would entirely wipe out any competitive advantage the US would get from lower Mexican tariffs.

## 2. How will rejecting Nafta improve our trading position?

Response: It will place our trading and investment relationship

with Mexico on a more realistic basis and lay down a marker for the future: countries that wish to have a trade and investment agreement with us must effectively permit internationally recognized worker rights--the right to organize, bargain collectively and strike. These rights are not in practice recognized in Mexico. The result is that the Mexican worker does not get a fair share of productivity gains. And the Mexican market for consumer goods, domestic and imported is then artificially constrained: "Unless Mexican workers get a bigger share of the economic benefits from incoming investment and free trade through higher wages, shorter workdays and weeks, and better vacation, health care and retirement benefits, the promised payoff for Americans will not come. Mexican workers will not be able to increase greatly their purchases of American consumer goods.....And competition from cheap labor in Mexico will continue to exert a downward pull on wages and working conditions in the US." (Karin Lissakers, "Why Clinton is Right on Nafta, Wall Street Journal, Counterpoint, November 19, 1992).

3. You ask, do I agree or disagree with your statement that "the American worker is at least five or six times more productive than his or her Mexican counterparts, and is better equipped to handle changing technology".

Response: Your question is misleading. The comparison you pose is between average productivity levels in the two economies. The low productivity in Mexican agriculture, the street vendors, and the people who try and wash your window at traffic lights in Mexico City are thus factored into the equation. The relevant issue is relative productivity levels in the export sector of Mexican industry, and, there, the gap, if there is a gap at all, is much narrower.

Today, according to recent respected academic research, labor productivity in Mexico's export industries is typically 80 to 100 percent of US levels. (Harley Shaiken "Myths About Mexican Workers". Washington DC: Democratic Study Center, June 29, 1993): "Mexico exported over 250,000 cars to the US in 1992, placing third behind Canada and Japan in units exported. The most sophisticated automotive assembly plant in Mexico is Ford Motor Company's \$500 million assembly and stamping plant in Hermosillo. About 2,000 hourly workers, over 120 robots, and dozens of computerized systems combine to produce up to 165,000 cars a year, all for export to the US and Canada. ... Hermosillo switched over to building a new, more intricate model of the Ford Escort and Mercury Tracer in 1990, after a \$300 million expansion and changeover. At the end of 1992, the plant placed sixth out of forty-six assembly plants in North America in terms of quality, according to a survey carried out by the authoritative J.D. Power and Associates." (Id at pp 4-5).

The basic problem, as House Majority Leader Richard Gephardt has

said is that, in Mexico, the traditional link between increases in productivity and wages has been broken: "I was taught ..that wage and productivity growth go hand in hand. The problem that we now confront is that this linkage is broken." Although, as Shaiken notes, labor productivity in Mexico's export industries is typically 80 to 100 percent of US levels, wages and benefits are 10 to 15 percent of US levels. Mexican workers earn less (including benefits) in US dollars per hour (\$2.35) than workers in Hong Kong (\$3.89), Korea (\$493), Singapore (\$5,00) and Taiwan (\$5.19). (U.S. Department of Labor, Bureau of Labor Statistics. "International Comparisons of Hourly Compensation Costs for Production Workers in Manufacturing." Report 844. Washington, DC, April 1993).

I would not agree with your statement that Mexico "simply cannot meet the demand for workers with higher, technical skills." The issue is not, as you state it, whether "the American worker is well equipped to handle competition from Mexico". If the playing field were level, I would agree with your conclusion that the American worker can meet Mexican, or, any other competition. But the playing field is not level, which brings us to your questions #s 4 and 5, and the heart of our disagreement.

Question 4. You state that it is your impression from my and other testimony that I and others like minded believe that the US "should use trade agreements, not to expand markets for US goods and create jobs, but to leverage social policy in other countries." And you ask, "shouldn't our main priority be to expand our economy and create more jobs at home?"

Response: I heartily agree that our main objective should be to "expand our economy and create more jobs at home." But approving Nafta as presently negotiated (including the side agreements) is likely to have exactly the opposite effect: it will further encourage the export of jobs from the US and place downward pressure on wages and work place standards. I repeat that Nafta is not solely an agreement to expand trade among the three countries in goods and services; it is that and an agreement to create incentives for investment of capital in Mexico. Part of the climate which the Mexican government has designed to attract that capital is a repressive Mexican labor relations regime. Labor unions are controlled by the Mexican government; almost insurmountable obstacles are created by government controlled arbitration and conciliation boards to the formation of independent trade unions. There is intimidation of Mexican workers by companies, sanctioned by the Mexican government, (Volkswagen, 1992) or directly by the Mexican government of union leaders who negotiate too aggressively with foreign companies and consequently disturb the investment climate (Agapito Gonzalez Cavazos, 1992).

I have detailed the Volkswagen and Gonzalez cases in my testimony and the Briefing Paper I prepared for the Economic Policy Institute, The Labor Side Accord to the North American Free Trade Agreement, An Endorsement of Abuse of Worker Rights in Mexico. This briefing paper has been submitted as part of the record of the Hearing. They are only two examples of the abuses which are endemic to the Mexican labor relations regime.

Suppose the state of South Carolina, for example, was exempt from the National Labor Relations Act, but goods and services produced in that state were assured guaranteed access to the continental US market. Suppose further that the authorities in South Carolina sought to attract investment capital by assuring prospective investors that no independent unions were permitted to be organized; and that companies could unilaterally change work rules and reduce salaries if they thought they needed to do so for competitive reasons. If workers struck in protest, the companies could be assured that the state government would back the company up in ripping up whatever labor contract existed and dismissing recalcitrant workers (Volkswagen, Mexico). Or that it would physically intimidate any labor leaders who negotiated too aggressively on behalf of their fellows (Agapito Gonzalez). Do you think that citizens of New Hampshire (or of any other state in the union) would consider such practices fair competition in trying to attract investment capital and jobs? The question answers itself: of course not. Yet that is what is being proposed in connection with Mexico and the Nafta.

Your attempt to isolate "social policy" from trade and investment policy is misguided. The labor relations regime prevailing in a country is an integral part of the trade and investment climate. It is therefore a legitimate, indeed, an indispensable, element in the negotiation of the Nafta. Candidate Bill Clinton, to his great credit, recognized this inexorable nexus in his October 4, 1992, Raleigh, North Carolina speech. In that speech, Clinton stated that he could not recommend the Nafta without additional agreements that addressed Mexico's failure to enforce its own labor and environmental laws. Sadly, President Bill Clinton betrayed the promise of his Raleigh speech, particularly with respect to the labor side agreement. Which brings us to your last question.

Question # 5. You ask (a) on what basis do I base my conclusion that the labor side agreement is ineffective and (b) is there a similar trade agreement with another country on which I based my conclusion?

Response: As I previously mentioned in my response to your question # 4 I have prepared a briefing paper which analyzes the labor side agreement negotiated by the Clinton Administration Special Trade Representative (STR), Ambassador Mickey Kantor. On all counts, the side agreement fails to provide an effective

remedy for the abuses inherent in the Mexican labor relations regime and which constitute an unfair competitive advantage for Mexico in attracting investment capital. It (a) removes from the full grievance procedure, however tortuous it may be, industrial relations--the internationally recognized worker right to organize, bargain collectively and strike. These rights in Mexico are not respected; (b) imposes a burdensome requirement that a complaint must first demonstrate, among other things, that the alleged violation is part of a persistent pattern of failure to enforce the relevant law, a requirement that appears nowhere in the Nafta; (c) allows a remedy more illusory than real for alleged industrial relations violations, the right of the U.S. Secretary of Labor to consult with the Mexican Minister of Labor, precisely the individual the U.S. Embassy in Mexico City has identified as responsible for some of the worst abuses of Mexican worker rights; (d) allows as a complete defense to alleged violations of child labor, minimum wage and health and safety law and procedures, a claim of other enforcement priorities or prosecutorial discretion not to enforce the law, a loophole so great one can drive a Mack truck through it.

The pity is that President Bill Clinton had an opportunity to redefine the rules of the game in this new world of international competition to attract (and keep) investment capital that we will face in the remainder of this decade. That world is increasingly characterized by a mad scramble for such capital, a scramble which has been intensified by three factors not present in past decades: (a) the fall of communism in the former Soviet Union and Eastern Europe, which has permitted these states to emerge as competitors for capital; (b) the debt crisis of the decade of the eighties, which has made debt financing from private capital markets less accessible for many middle income countries who were heavily indebted in the past two decades. These countries, Mexico among them, have now joined the scramble for investment capital to finance development; and (c) the opening of India and China in the direction of more outward oriented market economies, who are now also competing for investment capital.

Unless this scramble for capital is accompanied by a corollary agreement on minimum labor standards and worker rights it will degrade our own domestic social compact as represented by the National Labor Relations Act. Multinational companies will search out the most congenial investment climate, which translates into one in which there are no troublesome unions and workers. And there will be increasing downward pressure on domestic wage levels and work place standards.

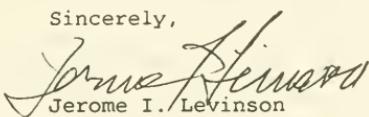
By failing to stand firm and insist upon harmonizing upwards wages and work place standards in the negotiation of the labor side accord to the Nafta, President Clinton has, in effect, endorsed an agreement which will ratchet down wages and standards. In capitulating on every important issue in connection

with the labor side agreement, the Clinton Administration flubbed a golden opportunity to establish a new conceptual framework for the conditions we will face in the scramble for investment capital in the remainder of this decade.

The issue is not whether we compete in the international economy. The issue is on what terms that competition is to be defined. The only one who has faced the issue squarely is the conservative French Prime Minister. He has warned the European Community that it must consider whether it can any longer admit imports from countries that do not respect worker rights and permit a degraded environment to gain competitive advantage.

And this brings us to the answer to the second part of your question: the European Community before it admitted Spain and Portugal demanded of them that they have in place the institutions of true democracy: a free press, independent trade unions, multi-party democracy and an independent judiciary. In imposing these requirements as a precondition for membership, the Community recognized that they were essential components of an investment regime. With these checks and balances in place, the labor relations abuses that are integral to the Mexican investment climate are not possible. There is a levelling of the playing field with respect to the rules governing the competition for investment capital. The lesson is that we cannot separate "social policy" from economic policy. In the modern world, they are one and the same thing.

Sincerely,



Jerome I. Levinson

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**Congress of the United States  
House of Representatives  
Washington, DC 20515-2001**

September 16, 1993

CHAIRMAN, REPUBLICAN TASK FORCE ON  
TAX POLICY AND JOB CREATION

COMMITTEE ON PUBLIC WORKS  
AND TRANSPORTATION  
SUBCOMMITTEE  
SURFACE TRANSPORTATION  
WATER RESOURCES  
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GOVERNMENT OPERATIONS  
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COMMERCE AND  
MANUFACTURING

COMMITTEE ON  
SMALL BUSINESS  
SUBCOMMITTEE  
SBA, LEGISLATION AND  
THE GENERAL ECONOMY

Mr. Jerome I. Levinson  
Economic Policy Institute  
1730 Rhode Island Avenue  
Washington, DC 20036

Dear Mr. Levinson:

Thank you for your testimony and participation before the Subcommittee on Employment, Housing, and Aviation hearing on the North American Free Trade Agreement. While we clearly disagree on the merits of NAFTA, you articulated your position well. I hope that we will have further opportunities to discuss this issue in the coming months.

As I indicated during the close of the hearing, I would like to take an opportunity to pose some additional questions to you on NAFTA. Your time and consideration in responding to these would be most helpful.

\* The lessening of Mexican trade barriers has resulted in a significant and growing trade surplus with that country, and a corresponding growth in trade-supported jobs in this country. Both the present Administration and the previous one have maintained that trade with Mexico currently supports 700,000 jobs in this country, and that NAFTA will leverage further job growth. The growing trade relationship with Mexico has even benefitted New Hampshire, supporting thousands of jobs in the state. Since NAFTA will further eliminate trade barriers, how can you maintain that the trade agreement is bad for this country?

\* The United States is presently the world's largest exporter, and we will rely increasingly on international trade to maintain our prosperity in the future. Obviously, expanding the export of American goods and services demands a lowering of trade barriers maintained by other countries, which is what NAFTA will force Mexico to do. How will rejecting NAFTA improve our trading position?

The Honorable William H. Zeliff  
questions for Jerome Levinson (cont.)  
page two...

\* The American worker is at least five or six times more productive than his or her Mexican counterparts, and is better equipped to handle changing technology. Mexico simply cannot meet the demand for workers with higher, technical skills. Do you agree or disagree with this point of view? Isn't it safe to say that the American worker is well equipped to handle competition from Mexico?

\* My impression from your testimony, and from others I have heard, is that the US should use trade agreements, not to expand markets for US goods and create jobs, but to leverage social policy in other countries. I don't question the fact that our trade policies should reflect our commitment to human rights, but shouldn't our main priority be to expand our economy and create more jobs here at home?

\* You contend that the side agreement on labor, which allows fines and trade sanctions for persistent violations of a country's labor laws, to be ineffective. On what do you base this assumption? Do we have a similar trade arrangement with another country that you have drawn historical perspective from to reach the conclusion that you have reached?

Once again, thank you for taking the time to respond to these questions. If I can provide you with any information or assistance, please do not hesitate to contact me.

Sincerely,



Bill Zeliff  
Member of Congress

WHZ:svh

*Embajada de Mexico*

September 7, 1993  
Washington, D.C.

VIA FAX

The Honorable Collin C. Peterson  
Chairman  
Subcommittee on Employment, Housing  
and Aviation  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Peterson:

Thank you for your invitation to provide testimony at the hearing of the Subcommittee on Employment, Housing and Aviation which will take place on Thursday, September 9.

As you are aware, I have always been available to discuss issues on any subject with members of Congress, and I have met, both individually and collectively, with an important number of your colleagues. However, it has been a long standing practice that officials of the Mexican Government do not provide testimony before any foreign Congress. For this reason, I must decline your invitation.

As to the possibility that another witness be available for testimony at the aforementioned hearing, I suggest that since both NAFTA and the side agreements were negotiated by all three NAFTA countries, it would be most appropriate that one of the U.S. officials involved in the negotiations comment directly on the specific issues of interest to the Subcommittee.

Thank you once again for your invitation.

Sincerely,

*Jorge Montaño*  
Jorge Montaño  
Ambassador



# THE NAFTA

Expanding U.S. Exports, Jobs and Growth



Clinton Administration Statement  
on the North American Free Trade Agreement

*"In the face of all the pressures to do the reverse, we must compete, not retreat."*

President Clinton, February 26, 1993

## The North American Free Trade Agreement (NAFTA): Expanding Exports, Jobs and Growth

*"The truth of our age is this—and must be this: Open and competitive commerce will enrich us as a nation... And so I say to you in the face of all the pressures to do the reverse, we must compete, not retreat."*

—President Clinton, February 26, 1993

*"By building together the largest free trading region in the world, Mexico, the United States and Canada are working to ensure that the future will bring increased prosperity, trade, and new jobs for the citizens of each of our countries."*

—President Bush, July 15, 1992

**E**very generation of Americans has embraced the challenge of its times. None has shrunk from the task. Our biggest challenge today is economic—to channel a changing international economy to our benefit.

The Clinton Administration is committed to rebuilding the U.S. economy from the ground up. We must prepare our entire work force to compete in the global economy and make sure that nobody gets left behind in the process. We look at trade—and every other issue—from the viewpoint of what is best for ordinary Americans who work hard, play by the rules, and want a chance to get ahead. The key building blocks are economic growth and jobs.

**The North American Free Trade Agreement (NAFTA) is a part of this forward-looking strategy. This Administration supports the NAFTA with supplemental agreements because it will create high-wage U.S. jobs, boost U.S. growth, and expand the base from which U.S. firms and workers can compete in a dynamic global economy.**

Critics of NAFTA use scare tactics to assert that NAFTA will put Americans out of work. The truth is quite the opposite:

- NAFTA will spur further job gains and push jobs related to exports to Mexico toward the 1 million mark.
- Defeating NAFTA could cost hundreds of thousands of such jobs.

### The facts about NAFTA:

- NAFTA will create the biggest market in the world—right at our doorstep: a \$6.5 trillion market with 370 million people.
- NAFTA will level a playing field that remains—despite recent Mexican market openings—substantially tilted in Mexico's favor. Mexico's tariff barriers to U.S. goods are still 2.5 times greater than our own. All tariffs will be phased out under NAFTA.
- NAFTA will expand benefits the United States has enjoyed since Mexico began to open its markets in 1986. U.S. merchandise exports to Mexico have risen by 228% since 1986, reaching \$40.6 billion in 1992.
- U.S. jobs supported by these merchandise exports rose from 274,000 in 1986 to an estimated 700,000 in 1992—and these jobs are in all 50 states. (Merchandise exports to Canada support another 1.5 million U.S. jobs.)
- NAFTA will create an estimated 200,000 additional high-wage jobs related to exports to Mexico by 1995.
- NAFTA will increase opportunities for American firms to sell to Mexico. Those opportunities are especially important for small and medium-size businesses that cannot readily overcome high Mexican border barriers.

- If even a quarter of U.S. exports to Mexico were lost by 1995, U.S. export-related jobs would fall from the current level of 700,000 to 500,000 - a loss of 200,000 high-wage jobs (and a sharp contrast with the 900,000 projected jobs with NAFTA).

### **Protecting and Assisting U.S. Workers**

NAFTA not only will create a large number of new jobs in export industries, but also will ensure that our import-sensitive industries have substantial room for adjustment

- NAFTA provides for transition periods of up to 15 years in eliminating tariffs and other barriers on the most sensitive U.S. product sectors, such as household glassware, footwear, and some fruits and vegetables.
- For other products, U.S. tariffs will be phased out over 10 years or less. Only tariffs that are already very low will be eliminated immediately after the agreement enters into force.
- This gradual removal of barriers will provide companies and workers time to respond to changing competitive conditions.
- NAFTA contains special rules allowing a temporary reinstatement of U.S. tariffs or other measures to protect U.S. workers and farmers in the case of injury from a sudden surge in imports from Mexico or Canada. President Clinton has directed U.S. trade negotiators to seek a supplemental agreement to be sure this provision is used effectively.
- The United States will maintain domestic laws providing for penalties on dumped or subsidized imports that injure U.S. industry.
- Finally, NAFTA includes strict rules of origin that will prevent products of non-NAFTA countries from receiving preferential treatment under NAFTA.

Although NAFTA's net effect on U.S. jobs will be positive, it is likely also to lead to some job displacement. For those workers who may face job loss, the Clinton Administration is committed to having a **strong, fully funded worker adjustment program** to assist the transition to new market realities.

In addition, the United States, Canada, and Mexico will establish a **North American Commission on Labor**. (See section VI.)

### **The Wage Issue**

**The idea that U.S. workers can't compete with low-wage Mexican workers is a myth.** If companies decided where to locate based solely on wages, investment would flock to countries much poorer than Mexico. Haiti and Bangladesh would be job and manufacturing powerhouses. That hasn't happened.

U.S. workers earn high wages because we are the most productive workers in the world. Americans can meet the challenge of international competition. NAFTA will enhance U.S. productivity and increase U.S. wages.

Mexico currently imposes no barriers on foreign investors who wish to set up production in Mexico for export. Mexico goes even further in encouraging foreign investment to service the domestic market by restricting access through imports. NAFTA will eliminate such incentives to foreign investors.

Despite the openness of the U.S. market and ability of U.S. and other foreign investors to set up shop in Mexico now, the United States is not being swamped with imports made by low-paid Mexican workers:

- If the United States were going to be flooded with such imports, it already would have happened.
- In fact the reverse is true: U.S. exports to Mexico have increased far more than U.S. imports from Mexico.
- The United States' largest bilateral surplus in manufactured products is with Mexico.

### **Immigration**

**To the extent that our workers compete with low-paid Mexicans, it is as much through undocumented immigration as trade.** This pattern threatens low-paid, low-skill U.S. workers.

- The combination of domestic reforms and NAFTA-related growth in Mexico will keep more Mexicans at home.
- It is likely that a reduction in immigration will increase the real wages of low-skilled urban and rural workers in the United States.

*Trouble in Tijuana?*

## Union's Mexican Misadventure Grist for NAFTA Mill

BY JULIE COHEN

A group of union members who traveled to Tijuana last month to check out working conditions at U.S.-owned factories say they were unfairly detained for about three hours by Mexican authorities.

Now back in the states, they're using the Sept. 21 incident as ammunition in their battle to defeat the North American Free Trade Agreement (NAFTA), which they say will lure more American companies to Mexico, taking jobs from U.S. workers.

Not surprisingly, the Mexican government, which is in the midst of a \$30 million lobbying campaign in support of NAFTA, has a different version of the events outside a Tijuana plastics plant. And so does the Clinton State Department, which investigated the incident and found no cause for alarm.

But their skepticism has not daunted the International Association of Machinists and Aerospace Workers (IAM), who are planning to use their Mexican experience in their lobbying campaign against NAFTA—and have already enlisted a leading congressional Democrat to press their case on the House floor.

Members of the delegation—made up of about 40 staffers and hand-file copies of the unionists' union—say they were acting on a bus talking to a former employee of the Plasticos Baja Cal plant when armed immigration officials boarded and demanded identification.

The union representatives say they were driven to a remote area, held on the bus with no clear explanation, prevented from



**The unionists  
'were victims of  
the most basic  
human-rights  
violations at the  
hands of the  
Mexican  
government.'**

GEORGE KOURPIAS  
International Association  
of Machinists

making phone calls, and threatened with jail time.

"They had two to seven people guarding us at all times," says Jim Winterhalter, an IAM staff member from the local chapter in Warren, Mich. "They told us not to leave that bus. At this point, everybody's kind of scared. Someone came out and told us that . . . what we were doing was subject to 18 months in jail for the first offense."

Mexican officials deny that the union members were prevented from making telephone calls or forced to stay on the bus. They say the unionists were detained for leafleting outside the plant—which they were prohibited from doing, because they had entered the country on tourist visas.

"It has been sufficiently documented that the members of your union entered Mexico for the specific purpose of political proselytism: that is, to promote opposition to NAFTA amongst the workers of Plasticos Baja Cal and instigate their dissatisfaction with the company and its union," wrote Mexican Ambassador

Jorge Montano in a letter to the union.

Continued Montano, "Mexican authorities were called upon to act when the people in question were seen distributing propaganda." Montano enclosed a sample of leaflets, he says officials confiscated from the union members.

The three-page leaflet, printed in Spanish, features a cartoon of a stooped Mexican rolling out a carpet for a cigar-smoking foreign investor as he steps off an airplane. Another cartoon depicts an apron-wearing worker, asking his boss, in Spanish, "What are my rights as a labore?" "Nothing," replies the boss, in English.

Members of the IAM delegation say they've never seen the pamphlet they're accused of distributing. And they deny trying to rally Mexican workers against NAFTA.

"If you're not doing something wrong, they make something up," Winterhalter says. "That's not the kind of country I'd like to make a deal with, because I don't think you can ever trust them."

### Chain Letters

Winterhalter and the rest of the delegation, which left Mexico as soon as authorities let its members go, wasted no time bringing their story to Washington. On Sept. 22, the day after the incident, IAM President George Kourpias wrote letters to President Bill Clinton—NAFTA's biggest cheerleader—and the secretaries of state, commerce, and labor.

A week later, on Sept. 29, Kourpias accompanied Winterhalter to Capitol Hill where they visited with House Majority Leader Richard Gephardt of Missouri, who heads up the NAFTA opposition in Congress, and Majority Whip David Bonior of Michigan, another NAFTA opponent. Kourpias and Winterhalter also testified that day before the House Government Operations Subcommittee on Employment, Housing, and Aviation.

The machinists detained in Tijuana "were victims of the most basic human-rights violations at the hands of the Mexican government, working in collusion with operators of [an American-owned] plant," Kourpias told the committee. "The official conduct of misconduct by the Mexican government is reason enough to defeat the NAFTA act."

Bonior echoed that theme the next day, when he described the Tijuana incident in a speech on the House floor.

"The bottom line is you cannot have free trade with a country that is not free," Bonior said. Bonior and Sen. Donald Riegle (D-Mich.), who both count thousands of machinists among their constituents, wrote their own letter to the State Department. They voiced their concern over the alleged mistreatment of Americans by Mexican officials and asked for a full investigation.

A State Department official says that the administration has already investigated the incident and accepts the Mexican government's version of events.

SEE NAFTA, PAGE 17

**NAFTA FROM PAGE 2**

The union members "were at or on a private factory premises," says the official, who requests anonymity. "They



**Rep. David Bonior in floor speech blasted Mexican officials' actions.**

were conducting advocacy activities—distributing literature and all that."

But a spokesman for the Carlisle Plastics, Inc., the Boston-based company which owns the Plasticos Baja Cal plant, doesn't accuse the union members of distributing literature.

**'A Non-event'**

Lewis Boxenbaum, chairman of Brown Boxenbaum, a New York-based public-relations firm representing Carlisle, says that managers at the plant called Mexican authorities because "the whole group was taking photographs and pointing. . . . It looked strange. Nobody knew what was going on."

Boxenbaum says that Carlisle employees never asked authorities to detain the machinists. And he scoffs at the union's attempt to make the incident an issue in the NAFTA debate.

"Frankly, it really is a non-event, contrary to what the IAM is saying," he says.

The Mexican government certainly hopes so; pushing hard for the agreement, its leaders are eager to avoid even the smallest hitch. Last week, President Carlos Salinas told *The Washington Post* he'd pull his support if Congress did not act quickly to approve the accord. □

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Jobs Move to Mexico Explained

MILWAUKEE (AP) Briggs & Stratton Corp. said Wednesday it has to transfer 240 assembly jobs to Mexico in order to reduce costs and save its automotive lock division.

The company's suburban Glendale factory recently lost its lock business for General Motors' Saturn line. It was underbid by an Alabama company, Briggs vice president Harry Stratton said.

Stratton said the company intends to expand its 40,000-square-foot plant in Juarez, Mexico, after Aug. 1, 1994. Expansion earlier than that is prevented by a clause in the Briggs contract with Local 232, Allied Industrial Workers.

Briggs, whose small-engine factory is in suburban Wauwatosa, said the plan involves eliminating about one-half its production jobs at the Glendale plant and some white-collar jobs in the next four years.

Some local components will still be made in Glendale as employment in Juarez plant doubles to about 600. Glendale currently has 620 employees.

Local 232 secretary-treasurer Joseph Chambers said the job PRESS RETURN TO CONTINUE OR ENTER ANOTHER REQUEST.

transfer plan stems from a "price-driven profit-driven mentality."

The union is a critic of the company's various shifts to Mexican production, which include opening the Juarez factory in 1988. It has cited the Briggs case in its opposition to the North American Free Trade Agreement (NAFTA).

Local 232 represents about 5,000 Briggs workers in Wisconsin. They average approximately \$15 an hour, Chambers said.

"I don't know how we can compete with wages of \$1 an hour as well as the (limited) health, safety and environmental laws they have there," he said. "This proves there is no way American workers can make sacrifices and still have decent jobs while competing with workers in the Third World."

Briggs wage earners have received pay increases of 2 percent each in the last 10 years. They accepted contract concessions in 1990 in hope of keeping jobs in Milwaukee.

Briggs said in May it was moving 46 jobs to Mexico and would eliminate 23 more after losing the \$2 million-a-year GM contract to All-Lock Co. of Alabama.

Briggs said European and Far East companies are also bidding for the U.S. automotive parts business.

"Global economics are a fact of life," Stratton said.

PRESS RETURN TO CONTINUE OR ENTER ANOTHER REQUEST.

The Juarez decision is a "preemptive move designed to maintain the company's business, which in turn will maintain higher-paying jobs in Milwaukee," the company said.

Briggs, the Milwaukee area's largest private-sector employer, had 9,264 wage earners in 1980, Chambers said.

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